

## NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 2-91)

## AGENCY

California Department of Social Services

(See instructions on reverse)

original  
For use by Secretary of State only

OAL FILE NUMBERS	NOTICE FILE NUMBER Z292-1124-02	REGULATORY ACTION NUMBER 93-0420-02C	EMERGENCY NUMBER 92-1123-02 E	AGENCY FILE NUMBER (if any) RDB#1092-37	PREVIOUS REGULATORY ACTION NUMBER
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For use by Office of Administrative Law (OAL) only

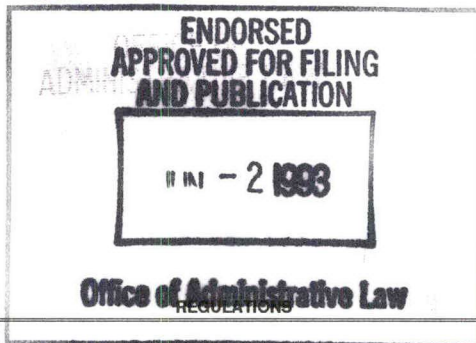
FILED

In the office of the Secretary of State  
of the State of California

JUN 2 1993

At 3:43 O'clock P. M.

MARCH FONG EU, Secretary of State

By *William J. Moreland*  
Deputy Secretary of State

NOTICE

## A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. TOPIC OF NOTICE Changes to Homeless Assistance Program		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed <input type="checkbox"/> Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER 92-1123-02	PUBLICATION DATE 12-4-92

## B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

## 1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

TITLE(S) MPP	ADOPT
SECTIONS AFFECTED	AMEND Sections 44-211.511, 517(a)(2) and (3), .52 and .532
	REPEAL

## 2. TYPE OF FILING

- ☐ Regular Rulemaking (Gov. Code, § 11346)
 ☐ Resubmittal
 ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100)
 ☐ Emergency (Gov. Code, § 11346.1(b))
- ☒ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only
 ☐ Other (specify)

3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

N/A

4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

- ☐ Effective 30th day after filing with Secretary of State
 ☒ Effective on filing with Secretary of State
 ☐ Effective other (Specify)

5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

- ☐ Department of Finance (Form STD. 399)
 ☐ Fair Political Practices Commission
 ☐ State Fire Marshal
- ☐ Other (Specify)

6. CONTACT PERSON

Jim Rhoads, Assistant Bureau Chief, Regulations Development Bureau

TELEPHONE NUMBER

657-2586

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

*Eloise Anderson*

DATE

APR 6 1993

TYPED NAME AND TITLE OF SIGNATORY

Eloise Anderson, Director

## NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 2-91) ( REVERSE)

INSTRUCTIONS FOR PUBLICATION OF NOTICE  
AND SUBMISSION OF REGULATIONS

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

## ALL FILINGS

Enter the agency name and agency file number, if any.

## NOTICES

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

## REGULATIONS

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

## RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

## EMERGENCY REGULATIONS

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

## NOTICE FOLLOWING EMERGENCY ACTION

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

## CERTIFICATE OF COMPLIANCE

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

## EMERGENCY REGULATIONS - READOPTION

When submitting previously approved emergency regulations for re adoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

Amend Sections 44-211.511(d), .517(a)(3) and .532(e)(1) to read:

44-211 SPECIAL NEEDS IN AFDC (Continued)

42-211

.5 Homeless Assistance

.51 General (Continued)

.511 An AU is considered homeless when: (Continued)

- (c) It is residing in a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings;
- (d) And it has a need for housing in a commercial establishment, shelter, publicly-funded transitional housing, or from a person in the business of renting properties who has a history of renting properties.

HANDBOOK BEGINS HERE

- (1) Example: An otherwise eligible AU, who temporarily resides with another family, requests homeless assistance payments to obtain separate housing. The county determines that the AU is eligible to receive homeless assistance payments because: (1) they have a need for commercial shelter, and (2) they lack a fixed and regular nighttime residence. This is in accordance with the preliminary injunction ordered in Merriman v. McMahon, which remains in full force and effect.

HANDBOOK ENDS HERE (Continued)

.517 The county shall make restricted payments when the county establishes a finding of mismanagement of AFDC cash assistance. A restricted payment is a vendor or two-party payment to a provider of temporary shelter, permanent housing or utilities for any future homeless assistance payments associated with the incident of homelessness.

- (a) Mismanagement exists only when:
  - (1) The county determines that the homeless assistance payment was not used for shelter; or
  - (2) The AU fails to provide verification that the temporary shelter payment was spent on shelter; and/or as required under Section 44-211.532(d) for permanent housing; or

- (3) The AU provides verification which shows the homeless assistance payment was not paid to a provider who is a commercial establishment, etc., as specified in Section 44-211.511(d), 526 and 532(c). (Continued)

.52 Temporary Shelter (Continued)

.526 In order for the homeless assistance program to be available to meet shelter costs, the AU shall use a provider of housing who is a commercial establishment, shelter, publicly funded transitional housing, or person in the business of renting properties who has a history of renting properties.

- (a) When the AU fails to pay a provider in accordance with this requirement, the county shall follow the restricted payment provisions of Section 44-211.517.

HANDBOOK BEGINS HERE

(1) Example:

The AU receives three days of temporary shelter assistance in the amount of \$90. On the fourth day, the AU returns to the CWD for an extension of benefits. The AU provides a receipt that shows payment was made on two nights at XYZ Motel in the amount of \$75. The AU provides a receipt that shows on the third night the AU stayed with a friend who is not in the business of providing shelter and paid the friend \$15. The county determines that the third night the AU failed to pay a provider in accordance with this requirement. The county establishes that mismanagement of funds exists and the subsequent payment is made as a restricted payment.

(2) Example:

The AU receives three nights of temporary shelter in the amount of \$90. The AU returns on the fourth day to request an extension of benefits. The AU provides a receipt that shows the AU stayed in a shelter three nights at a cost of \$15. The AU has met the requirement of staying in a commercial establishment.



(3) Example:

The AU receives \$90 for three nights of shelter. The AU returns on the fourth night for an extension of benefits. The AU provides verification that shows \$100 was spent on two nights of shelter at the XYZ Motel. The third night the AU stayed with a friend at no cost. The AU has met the requirement of staying in a commercial establishment.

HANDBOOK ENDS HERE

.53 Permanent Housing (Continued)

.532 An amount not to exceed two months of an AU's rent, as described in MPP Section 44-211.531, is available to pay for the reasonable costs of security deposits when the deposits are a condition of securing a permanent residence. (Continued)

- (c) In order for the homeless assistance program to be available to meet the cost of security deposits, the recipient must pay the permanent housing assistance to a commercial establishment or a person in the business of renting properties who has a history of renting properties.
- (d) The recipient shall provide verification within 30 calendar days of having received the permanent housing assistance payment of:
  - (1) The amount expended for permanent housing.
  - (2) The payment of the permanent housing assistance to a commercial establishment or a person in the business of renting properties who has a history of renting properties.
- (e) Should the recipient fail to provide verification, the county shall make a determination as to whether the payment was used for permanent housing rented from a commercial establishment or a person in the business of renting properties.
  - (1) A determination that the payment was not used for permanent housing or not used to pay a commercial establishment or a person in the business of renting properties shall result in a determination that mismanagement of funds exists for any future security deposit or utility payment associated with the same incident of homelessness. (Continued)

Authority Cited: Sections 10553, 10554, 11209 and 11450(g), Welfare and Institutions Code.

Reference: Sections 11266(a)(2), 11271, 11272, 11273, 11450(a)(1), (b), and (c), 11450(f)(2) and 11453.2, Welfare and Institutions Code; 45 CFR 206.10(a)(1)(ii), 45 CFR 206.10(a)(8), 45 CFR 233.10(a)(1)(iv), 45 CFR 233.20(a)(2)(v)(A), 45 CFR 234.11, ~~and~~ 45 CFR 234.60(a)(2)-(11); and Merriman v. McMahon, Preliminary Injunction, Case Number: 640362-5, July 27, 1988.

## NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

Original  
For use by Secretary of State only

## AGENCY

California Department of Social Services

AGENCY FILE NUMBER (If any)

1192-39

OAL FILE  
NUMBERSNOTICE FILE NUMBER  
Z92-1222-02

REGULATORY ACTION NUMBER

93-0428-04C

EMERGENCY NUMBER  
92-1221-08E

PREVIOUS REGULATORY ACTION NUMBER

For use by Office of Administrative Law (OAL) only

ENDORSED  
APPROVED FOR FILING  
AND PUBLICATION

JUN - 8 1993

Office of Administrative Law

NOTICE

REGULATIONS

FILED

In the office of the Secretary of State  
of the State of California

JUN 8 1993

At 4:19 O'clock P. M.

MARCH FONG EU, Secretary of State

By Kathleen J. Morland  
Deputy Secretary of State

## A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. TOPIC OF NOTICE Federal Voluntary Program for AFDC-FC		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed <input type="checkbox"/> Regulatory Action		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER		PUBLICATION DATE	

## B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

## 1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

TITLE(S) MPP	ADOPT
SECTIONS AFFECTED	AMEND 45-202
	REPEAL

## 2. TYPE OF FILING

☐ Regular Rulemaking (Gov. Code, § 11346)
 ☐ Resubmittal
 ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100)
 ☐ Emergency (Gov. Code, § 11346.1(b))

☒ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only
 ☐ Other (specify) \_\_\_\_\_

## 3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

N/A

## 4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☐ Effective 30th day after filing with Secretary of State
 ☒ Effective on filing with Secretary of State
 ☐ Effective other (Specify) \_\_\_\_\_

## 5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☒ Department of Finance (Form STD. 399)
 ☐ Fair Political Practices Commission
 ☐ State Fire Marshal

☐ Other (Specify) \_\_\_\_\_

## 6. CONTACT PERSON

Jim Rhoads, Assistant Chief, Regulations Development Bureau

TELEPHONE NUMBER

657-2586

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

Eloise Anderson

TYPED NAME AND TITLE OF SIGNATORY

ELOISE ANDERSON, Director

DATE

APR 26 1993

**NOTICE PUBLICATION/REGULATIONS SUBMISSION**

STD. 400 (REV. 2-91) ( REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE  
AND SUBMISSION OF REGULATIONS**

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

**ALL FILINGS**

Enter the agency name and agency file number, if any.

**NOTICES**

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

**REGULATIONS**

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

**RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS**

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

**EMERGENCY REGULATIONS**

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

**NOTICE FOLLOWING EMERGENCY ACTION**

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

**CERTIFICATE OF COMPLIANCE**

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

**EMERGENCY REGULATIONS - READOPTION**

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.



.4 Authority for Placement

.41 The child shall meet one of the following criteria for placement in foster care:

.411 Removal by Court Order

- (a) The child shall be removed from the home of a parent or relative as the result of a court order which specifies:
  - (1) That the responsibility for placement and care be vested in one of the agencies listed in Section 45-202.61; and
  - (2) That continuance in the home of that parent or relative would be contrary to the child's welfare; and
  - (3) That, if the child is placed into foster care on or after October 1, 1983, reasonable efforts have been made to prevent or eliminate the need for removal of the child from his or her home and to make it possible for the child to return to his or her home.
- (b) The court order shall result in the child's placement in foster care with a nonrelative or with a different relative than the one from whose home he/she was removed.
  - (1) This requirement shall be determined to be met if the child was absent from the parent's or relative's home in the month the petition, which initiated court action for removal, was filed, provided the child had resided with such parent or relative within any of the six months prior to the month that petition was filed. For example, the child was living with a grandparent for any reason in the month the petition was filed. However, within any of the six months preceding the filing of the petition, which initiated court action, the child lived with the parent from whom the child was removed. This child shall be considered removed from the home of his/her parent and placed with the grandparent. Furthermore, the linkage determination shall be based on that parent's home as provided in Section 45-202.313.

(c) Subsequent dismissal of the jurisdictional and dispositional orders shall not result in the loss of FFP provided all other general and federal AFDC-FC requirements continue to be met; and

(1) The court order was dismissed because the child turned 18 and the child meets the requirements of Section 45-201.111; or

(2) The court order was dismissed because, in accordance with Section 45-203.311, the child was relinquished or the petition to terminate parental rights of one or both parent(s) was granted and placement and care is with one of the agencies specified in Section 45-202.61.

.412 Removal by Voluntary Placement

(a) The child shall be removed from the home of a parent or guardian as a result of a voluntary placement agreement. This out-of-home placement of a minor without adjudication by the juvenile court shall occur only when both of the following conditions exist:

(1) There is a mutual decision between the child's parent or guardian and the placing agency; and

(2) There is a written binding agreement between either the county welfare department, a licensed public or private adoption agency or the Department acting as an adoption agency, and the parent or guardian of a minor.

(b) The voluntary placement agreement shall specify the legal status, rights and obligations of the child; the rights and obligations of the placing agency; the rights and obligations of the parent or guardian; and any other relevant factors.

(c) Time Limitations

(1) A child voluntarily placed shall be eligible for AFDC-FC payments for a period up to 180 days commencing with the date one of the listed agencies in Section 45-202.412(a)(2) assumes responsibility under a voluntary placement agreement and provided all other eligibility requirements are met.

- (2) The voluntary placement agreement shall be signed prior to or at the time of placement and shall state the beginning date of placement and planned return date of the child to his/her home. This period shall not exceed 180 days. .
- (3) A child voluntarily placed shall be eligible for AFDC-FC payments for subsequent voluntary placements. However, a new 180-day period of eligibility for AFDC-FC payments shall commence only if the child's prior voluntary placement was previously terminated and the child was returned to his/her home. Any subsequent placements shall meet the requirements of Sections 45-202.412(c)(1) and (2).

.42 The income maintenance case record shall contain a statement from the placement worker, on the SOC 158a (11/88) form, which certifies that a copy of the court order or voluntary placement agreement is in the services case record. If Section 45-201.411(c)(2) applies, the case record shall also contain a statement from the placement worker, on the FC 5 or a substitute form approved by the Department, which certifies that the child meets the requirements of Section 45-203.311. This certification shall occur at the time of application, at redetermination of the child's AFDC-FC eligibility, and when there is a change in the authority for placement.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11400(o) and 16507.4, Welfare and Institutions Code; Public Law 96-272; 45 CFR 1356.30; and 42 USC 672(a)(4).

REGULAR  
NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 2-91)

(See instructions on  
reverse)original  
For use by Secretary of State only

AGENCY

State Department of Social Services

AGENCY FILE NUMBER (if any)

1091-51

OAL FILE  
NUMBERSNOTICE FILE NUMBER  
Z-92-0421-02

REGULATORY ACTION NUMBER

EMERGENCY NUMBER

PREVIOUS REGULATORY ACTION NUMBER

For use by Office of Administrative Law (OAL) only

ENDORSED  
APPROVED FOR FILING  
AND PUBLICATION

JUN 11 1993

Office of Administrative Law

NOTICE

REGULATIONS

FILED

In the office of the Secretary of State  
of the State of California

JUN 11 1993

At 3:32 o'clock P.M.  
MARCH FONG EU, Secretary of State  
By Katherine J. Morland  
Deputy Secretary of State

## A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. TOPIC OF NOTICE WRL v. McMahon		TITLE(S)		FIRST SECTION AFFECTED		2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed <input type="checkbox"/> Regulatory Action		<input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	
OAL USE ONLY		ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified		<input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER 92-#18-2	
						PUBLICATION DATE 5-1-92	

## B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

## 1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

TITLE(S) MPP	ADOPT 40-013; 44-318; 44-355; 82-610; 82-612; & 82-614.
SECTIONS AFFECTED	AMEND 40-119; 40-121.3; 44-103; 44-207.2 & .4; 44-211.521 (Handbook); 44-317.11 & .621; 44-350.15; 80-301; 80-310; 82-808.11; 82-820.24; & 82-824.12.
	REPEAL

## 2. TYPE OF FILING

☒ Regular Rulemaking (Gov. Code, § 11346) ☐ Resubmittal ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) ☐ Emergency (Gov. Code, § 11346.1(b))

☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only ☐ Other (specify)

## 3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

March 11, 1993 to March 25, 1993

## 4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☐ Effective 30th day after filing with Secretary of State ☐ Effective on filing with Secretary of State ☒ Effective other (Specify) July 1, 1993

## 5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☒ Department of Finance (Form STD. 399) ☐ Fair Political Practices Commission ☐ State Fire Marshal☐ Other (Specify)

## 6. CONTACT PERSON

Jim Rhoads, Assistant Bureau Chief, Regulations Development Bureau

TELEPHONE NUMBER

(916) 657-2586

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

Eloise Anderson

TYPED NAME AND TITLE OF SIGNATORY

Eloise Anderson, Director

DATE

APR 22 1993



**NOTICE PUBLICATION/REGULATIONS SUBMISSION**

STD. 400 (REV. 2-91) ( REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE  
AND SUBMISSION OF REGULATIONS**

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

**ALL FILINGS**

Enter the agency name and agency file number, if any.

**NOTICES**

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

**REGULATIONS**

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

**RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS**

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

**EMERGENCY REGULATIONS**

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

**NOTICE FOLLOWING EMERGENCY ACTION**

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

**CERTIFICATE OF COMPLIANCE**

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

**EMERGENCY REGULATIONS - READOPTION**

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

Adopt Section 40-013 to read:

40-013 IMPLEMENTATION OF WELFARE RECIPIENT'S LEAGUE (WRL) V. McMAHON  
CLEANUP REGULATIONS

40-013

.1 Effective Date

This regulatory action shall be effective July 1, 1993.

.2 Sections Affected

The following sections are affected by this regulation package:

40-119 How and Where Application is Made  
40-121 Completing the Application  
44-103 Exploration of Income Potentials and Income Verification  
44-207 Income Eligibility  
44-211 Special Needs in AFDC  
44-317 Beginning Date of Aid for New Applications  
44-318 BDA for Persons Being Added to the AU  
44-350 Overpayments --General  
44-355 Mandatory Inclusion Overpayment/Underpayment  
80-301 Definitions  
80-310 Definitions -Forms  
82-610 Potentially Available Income  
82-612 Unemployment Insurance Benefits  
82-614 Good Cause for Failing to Meet UIB Conditions of Eligibility  
82-808 Caretaker Relative Requirements  
82-820 Included Persons  
82-824 Assistance Units That Shall Be Combined

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.3 Changes

.31 CA 7 As Application

The CA 7 or SAWS 7 shall be considered an application when: converting a case from State-only to federal AFDC or adding an optional person to the AU.

.32 Potentially Available Income

The regulations requiring cooperation in seeking and obtaining potentially available income are relocated in part as Sections 82-610 through 82-614. The regulations are amended to require that the entire family be ineligible when a mandatorily included member of the AU fails to seek/obtain potentially available income.

- .33    Temporary Shelter                      Potentially eligible AUs applying for temporary shelter payments must meet "technical conditions of eligibility" rather than "procedural requirements."
- .34    BDA for New Applications                      The BDA for persons whose eligibility remains pending after aid is granted to the AU or a child who is converting from Foster Care to AFDC is established as the date of application or date of eligibility, whichever is later.
- .35    BDA for Adding to AU                      The BDA for adding different persons to the AU are specified.
- .36    Immediate Need/Overpayment                      An immediate need payment is clarified to be an aid payment that shall be collected as overpayment when the family receives the payment and is ineligible.
- .37    Mandatory Inclusion -  
Overpayment/Underpayment                      Regulations specify how an overpayment or underpayment is treated when a mandatorily included person returns to the home but is not reported.
- .38    Definitions                      Definitions have been provided for "Aid Payment," "BDA," "Collect," "Date of Application," "Immediate Need Payment," "Recoup" and "Recover." Definitions have been amended for "Alternatively Sentenced Parent (ASP)" and "Senior Parent."
- .39    Definitions - Forms                      Definitions of forms have been provided for CA 7, SAWS 1 and SAWS 7.

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Authority Cited:    Sections 10553, 10554, and 11056, Welfare and Institutions Code.

Reference:                      Section 10554, Welfare and Institutions Code and SSA-AT-86-01.

Amend Section 40-119 to read:

40-119 HOW AND WHERE APPLICATION IS MADE

40-119

.1 New Applications

Application is accepted if made in writing on the CA 1 by the applicant to The county shall accept an application made by the applicant in writing on the SAWS 1 when made in the county in which the applicant lives. If he/she is physically present in another county/ the request for aid may be made to such other county but is forwarded to the county in which the applicant lives/ where it is recorded as an application (see Sections 40-117 and 40-125/1) When an applicant applies in another county, the county receiving the SAWS 1 shall forward the SAWS 1 to the county in which the applicant lives. The beginning date of aid is the date the first county received the completed SAWS 1. The first county shall date stamp the completed SAWS 1 upon receipt.

.2 State-only to Federal AFDC

The county shall consider the latest CA 7 or SAWS 7 the application for converting from State-only AFDC to federal AFDC.

.21 Pregnant Woman-only

The county shall consider the CA 7 or SAWS 7 received in the month before federal eligibility occurs as the application for federal AFDC for a pregnant woman with no other children who is receiving State-only AFDC.

.22 Federal AFDC-U

The county shall determine the principal earner and establish the connection with the labor force when converting to federal AFDC-U.

.3 Optional Persons

The county shall consider either the SAWS 1, SAWS 7, or the CA 7 the application for adding an optional person.

.4 Person Added to AU

The applicant or recipient joining an existing AU shall complete one of the following, prior to aid being granted:

.41 CA 8A

A CA 8A "Statement of Facts to Add a Child Under 16 Years," or



.42    CA 8

A CA 8 "Statement of Facts for Additional Persons."

.5    Statement of Facts

The applicant/recipient shall complete the appropriate Statement of Facts when the county determines that additional eligibility factors need review and/or the annual redetermination is due.

Authority Cited:    Sections 10553 and 10554, Welfare and Institutions Code.

Reference:        45 CFR    206.10(a)(1)(ii),    (a)(8),    and    (b)(2);    45 CFR  
233.10(a)(1)(ii)(A) and (B); and 45 CFR 233.100(a)(3)(iii) and  
(vi)(A).

Amend Sections 40-121.3 and .34 to read:

40-121 COMPLETING THE APPLICATION

40-121

.1 and .2 (Continued)

.3 The Application Form

~~The application is recorded on the form SAWS 1 (Rev. 9/90)/~~ The county shall provide a copy of the completed application SAWS 1 shall be given to the applicant at the time he/she applies. An application shall not be required for:

.31 (Reserved)

.32 and .33 (Continued)

.34 ~~A request to adding~~ a person to the Assistance Unit in AFDC who is mandatorily included in the AU. (Continued)

Authority Cited: Sections 10553, 10554, and 11056, Welfare and Institutions Code.

Reference: SSA-AT-86-01; 45 CFR 206.10(a)(1)(ii); 45 CFR 233.10(a); and Section 11056, Welfare and Institutions Code ~~Section 11056.~~

Amend Section 44-103 to read:

44-103 EXPLORATION OF INCOME POTENTIALS AND INCOME VERIFICATION

44-103

.1 County Responsibility

.11 The county ~~is responsible for~~ shall:

.111 Review~~ing~~, with the applicant or recipient, all his/her resources/ ~~in light of their~~ to determine income-producing potentials.

~~1112 Encouraging the production of income within the applicant's or recipient's capabilities/~~

.11~~2~~ Determining whether income is actually received and, if so/:

(a) ~~The~~ regularity of receipt,

(b) ~~The~~ gross or net amount, as appropriate,

(c) ~~The~~ applicant's or recipient's share, and

(d) ~~Whether if the income is excluded or exempt, in whole or in part/ from consideration as income (see Section 44-111).~~

~~1114 Informing recipients of the dates by which reports must be made on the amount of income received in that month/~~

~~1115 Referring all applicants and recipients who are apparently eligible for VIB/ before the referral of an applicant or recipient to EDD/ the county shall make the preliminary assessment that the individual is apparently eligible for VIB/~~

~~1a) Apparently eligible applicants of VIB are all applicants and recipients of AFDC/ except those described below/ who shall not be referred to EDD to apply for VIB/~~

~~11) Individuals who have not worked in employment covered by the Unemployment Insurance Compensation Law in the past 12 months/ or~~

~~12) Individuals who are receiving VIB/ have a VIB claim which is being processed/ have exhausted their VIB/ or~~

~~13) Individuals who are receiving Disability Insurance Benefits/ or~~

~~14) Individuals who are ill or injured as specified in Section 42-610.1/ or~~

- 15) Individuals who have previously been denied or discontinued from VIB and have had no subsequent employment which would change the previous EDD determination; or
  - 16) Individuals who are fully employed (working eight hours a day/ forty hours per week); or
  - 17) Individuals who are participating in a strike;
- 116 Determining good cause when an apparently eligible applicant or recipient/ who is registered in accordance with Section 42-623/ does not meet all conditions of eligibility for VIB/ circumstances that may constitute good cause shall be evaluated using the criteria contained in Handbook Subsection 44-103/116(b) below/

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- (a) The United States Department of Labor and United States Department of Health and Human Services WIN Handbook/ Chapter 10/ Section 10/ Subsection d/ provides the good cause criteria which govern the Work Incentive Program/

- (b) Failure or Refusal to Participate With Good Cause/

In some instances a registrant may have good cause for failing or refusing to participate/ Examples of good cause may include/ but are not limited to/

- 1) Illness or incapacity/
- 2) Court-required appearance or incarceration/
- 3) Emergency family crisis or sudden change of immediate family circumstances/
- 4) Breakdown in transportation arrangements with no readily accessible alternate means of transportation/
- 5) Inclement weather which prevented the registrant or other person similarly situated from traveling to/ or participating in the prescribed activity/
- 6) Breakdown in the child care arrangement or availability of child care not suited for special needs of child for whom it is intended/ handicapped or retarded child/
- 7) Lack of other necessary social services/ even though not specifically included in the local or state WIN plan/



- 8) The assignment of job referral does not meet the appropriate work and training criteria/
- 9) Refusal to accept major medical services even if such refusal precludes participation in the program/

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- 1117 discontinuing or denying aid to an individual/ as specified below/ if/ 1) the applicant or recipient does not apply for or accept any VIB to which EDD determines he/she may be eligible/ or 2) the applicant or recipient/ when registered in accordance with Section 42-623/ did not/ without good cause/ meet all conditions of eligibility for VIB (see Section 44-103/242 for the definition of meet all conditions of eligibility for VIB)/
- 1a) If the individual is a caretaker relative/ his/her needs shall not be considered in determining the amount of aid for the assistance unit/ or
- 1b) If the individual is one of several eligible persons in the assistance unit/ aid shall be denied or discontinued for that person/ aid shall be continued for the remainder of the family/ or
- 1c) If the individual is the only eligible child in the assistance unit/ aid shall be denied or discontinued to the entire family/ or
- 1d) If the individual is a state-only AFDC-V principal earner (see Section 41-602/6)/ or
- 1e) If the individual is a federally eligible AFDC-V principal earner (see Sections 41-440/11d) and 44-206/23)/
- 1118 Continuing aid for the entire month to an individual who is fully eligible for AFDC as of the first day of the month/ even though the individual is subsequently disqualified for VIB or refuses to accept the VIB for which he/she is eligible/ in this circumstance/ aid is discontinued effective the end of the month/ if the individual reestablished eligibility for VIB in the same month that he/she is disqualified for VIB/ aid shall continue uninterrupted/
- .12 Resources with income-producing potentials include The county shall examine income available to the applicant or recipient from the following potential sources:

.121 (Continued)

- .122 Benefits available to veterans of military service, members of military servicemen, their spouses and their dependents.
- .123 (Continued)
- .124 ~~In AFDC~~ Responsible relatives who may be contributing or have a legal liability to contribute.
- .125 (Continued)
- .126 Recipient's ~~own~~ capacity for self-help and employment.
- .127 Private pension plans, union welfare funds, life insurance disability benefits, and other forms of assistance/ ~~etc.~~

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Since substantiation of earnings/ expenses of employment/ and efforts to obtain employment are frequently difficult with respect to some families/ such as those employed in seasonal farm labor/ the county may wish to consider use of subprofessional personnel recruited from its assistance caseloads to contact such families for this purpose/ contacts at weekly intervals could assure current information regarding earnings/ expenses and needs and enable prompt and accurate agency action as the situation in such families change/

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.2 Applicant and Recipient Responsibility

- .21 The applicant or recipient, including the person responsible for a the child in AFDC, ~~is responsible/ shall~~  
  - /211 ~~for giving~~ provide information necessary to determine income.  
determinations/ and
- .22 /212 For taking all actions necessary to obtain unconditionally available income/ For AFDC applicants/ this The requirement in Section 44-103.21 is considered to be met on the date of application as long as it is completed by the date of authorization of aid.
- /22 Income shall be considered unconditionally available if the applicant or recipient has only to claim or accept the income/ such as but not limited to/ relatives offer of a contribution/ benefits available to veterans of military services/ or OASDI/
- /23 Only the applicant or recipient who does not apply for or accept unconditionally available income shall be rendered ineligible/ (See Section 44-103/117/)

.23    The county shall deny or discontinue aid, including immediate need, to the AU when the applicant or recipient fails or refuses to provide information necessary to determine income.

1231    The applicant or recipient who would be disadvantaged by receipt of special Age 72 OASDI benefits/ because he/she would lose the public assistance cash grant and certain medical benefits/ is not ineligible to a public assistance cash grant if he/she refuses to apply for and accept such benefits/

124    Applicants and recipients who are apparently eligible for VIB/

1241    Shall apply for and accept any VIB for which EDD determines he/she is eligible/ For AFDC applicants/ this requirement is considered to be met on the date of application as long as it is completed by the date of authorization of aid/ Any AFDC applicant or recipient who does not apply for or accept VIB for which he/she is eligible shall not be eligible for AFDC (also see Section 44-103/1131/ and

1242    When registered in accordance with Section 42-623/ shall meet all conditions of eligibility for VIB/ unless the county determines that the individual had good cause (see Section 44-103/1131/

124    Meet conditions of eligibility for VIB/ is defined as those current VIB requirements an applicant or recipient of VIB must meet in the month of application or aid payment in order to establish and/or maintain VIB eligibility/ These requirements include but are not limited to the criteria in Unemployment Insurance Code Section 1253/ (see Handbook Section 44-103/1241b) below/ Also see Section 44-103/113 regarding temporary periods of VIB ineligibility/

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1b)    Unemployment Insurance Code Section 1253 reads/ 1253/. An unemployed individual is eligible to receive unemployment compensation benefits with respect to any week only if the director finds that/

11)    A claim for benefits with respect to that week has been made in accordance with authorized regulations/

12)    He has registered for work/ and thereafter continued to report/ at a public employment office or such other place as the director may approve/ Either or both of the requirements of this subdivision may be waived or altered by authorized regulation as to partially employed individuals attached to regular jobs/

- 13) He was able to work and available for work for that week/
- 14) He has been unemployed for a waiting period of one week as defined in Section 1234/
- 15) He conducted a search for suitable work in accordance with specific and reasonable instructions of a public employment office/

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### 13 Evidence Required

- 131 Evidence is required to be submitted monthly with the CA 7 (see Sections 40-181/241/1) and 132 below).

When a recipient reports nonreceipt of the statement of earnings or there is a disagreement between the farm worker and his employer regarding the amount earned or deducted, the county should advise the Department of Industrial Relations Office having responsibility. (See Section 29-081/1) Until a report is received from that office, the recipient's word should be accepted/

- 132 When the recipient appears eligible for retirement or disability benefits of any kind, evidence is required that he has taken all necessary action to claim benefits. Where verification through OASDI Bureau or the Railroad Retirement Board is necessary, the procedure is to be that agreed upon with that agency (see Records, Forms and Controls Chapter/ SSA 1810/1)

Authority Cited: Sections 10553, 10554, 10604, and 11209, Welfare and Institutions Code.

Reference: Sections 10553, 10554, 10604, and 11270, Welfare and Institutions Code; and 45 CFR 233.10(a)(1) and 233.20(a)(3)(ix).

Amend Sections 44-207.2 and .4 to read:

44-207 INCOME ELIGIBILITY (Continued)

44-207

.2 (Continued)

.21 Description of 185 Percent Income Limit

The ~~assistance unit~~ AU is ineligible any month in which the total reported or anticipated gross income and any deemed income of the ~~family~~ AU for that month exceeds 185 percent of the combined Minimum Basic Standard of Adequate Care (MBSAC) and the value of any special needs. ~~When the gross income includes the income of a parent or a child living in the home who is required to apply for aid under Section 40-118 but is not included in the assistance unit, the MBSAC shall be increased by one (1) for each such individual.~~

.211 (Continued)

~~(c) The total gross income of excluded parents or children/ without the disregards and exemptions in Section 44-133/3/ shall be included in gross income.~~

~~(d) (c) (Continued)~~

~~(e) (d) (Continued)~~

.4 Treatment of Lump/Sum Income (Continued)

.41 Definition of Lump/Sum Income

.411 Lump/sum income is any income as defined in Chapter 44-100 received by an ~~applicant or recipient~~ AU which is not recurring regular income. Lump/sum income is usually nonrecurring in regard to amount and/or source. Lump/sum income includes but is not limited to the following: retroactive social insurance payments, real estate commissions such as from sales, income from freelance work, net proceeds from sale of a crop and bonuses.

.412 Lump sum income received by a person who is required to be included in the AU but is sanctioned is subject to the lump sum income computation. The MBSAC is not increased by the needs of such a person.

.413 Lump sum income is not subject to the lump sum income computation when it is received by:

(a) ~~When/sum income is received by a~~ A stepparent living in the same household as the ~~assistance unit~~ AU but who is not included in the ~~assistance unit~~ AU as an applicant, recipient or essential person ~~the lump/sum regulations 44-207/4/ do not apply to that stepparent income.~~

(b) A person who is excluded from the AU by law.

.414 (1) Income of a stepparent who is not included in the AU or a person excluded from the AU by law who is not included in the assistance unit shall be considered available to the assistance unit AU. ~~after~~ The amount of income available to the AU is determined by applying the ~~stepparent computation in accordance with section 44-133/8~~ appropriate deeming computation (Section 44-133). If the countable income, including the lump sum, exceeds the ~~assistance unit's~~ AU's needs MBSAC for the month, the family would be AU is ineligible for that month (see Section 44-133/8). (2) Any portion of the lump sum income retained by the stepparent or the person excluded from the AU by law subsequent to the month of receipt represents property (see Sections 42-203.5, 42-205.3, and 42-205.4).

.415 (b) (Continued)

.416 (c) (Continued)

.42 Lump Sum Income Computation (Continued)

.421 Divide the total of lump sum income, plus any other net nonexempt income received in the budget month by the total of the MBSAC plus any special needs. ~~For this computation, when the lump sum is received by an individual not included in the FBU, the MBSAC shall be increased by one (1) for each such individual. When an ineligible alien child of the parent(s) lives in the home, the MBSAC shall be increased for each such child.~~ (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553, 10554, and 11017, Welfare and Institutions Code; 45 CFR 233.20(a)(2)(xiii) and (3)(vi)(B) and (xiv), and Darces v. Woods, 35 Cal. 3d 871; Rutan v. McMahon, Case No. 612542-L (Alameda Superior Court) February 19, 1988; Letter from Department of Health and Human Services (DHHS), December 15, 1990; and Johnson v. Carlson Stipulated Judgement.

Correct Handbook Section 44-211.521(a) to read:

44-211 SPECIAL NEEDS IN AFDC (Continued)

44-211

.5 Homeless Assistance

.51 (Continued)

.52 Temporary Shelter (Continued)

.521 The temporary shelter payment is also available to homeless applicant AUs who are apparently eligible for AFDC.

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(a) Apparent eligibility for AFDC exists when evidence and/or the information provided on the application documents indicate that there would be eligibility for AFDC if the evidence and information were verified is defined in Section 40-129.11.

-(1) The potentially eligible AU must agree to cooperate with the CWD in meeting the AFDC procedural requirements specified in MPP 40-129/431(b)/ meet technical conditions of eligibility as specified in Section 40-129.214(a) unless good cause, as defined in MPP 43-107/4 exists.

(2) (Continued)

(b) Continued)

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.522 (Continued)

Authority Cited: Sections 10553, 10554, 11209 and 11450(g), Welfare and Institutions Code.

Reference: Sections 11056, 11266(a)(2), 11271, 11272, 11273, 11450(a)(1), (b), and (c), 11450(f)(2) and 11453.2, Welfare and Institutions Code; 45 CFR 206.10(a)(1)(ii), 45 CFR 206.10(a)(8), 45 CFR 233.10(a)(1)(iv), 45 CFR 233.20(a)(2)(v)(A), 45 CFR 234.11, and 45 CFR 234.60(a)(2)-(11).

Amend Sections 44-317.1 and .621 to read:

44-317 BEGINNING DATE OF AID FOR NEW APPLICATIONS

44-317

.1 Basic Date of Aid Determination

.11 The beginning date of aid (BDA) shall not precede the date of application. Aid shall begin on the date of application, or the date on which the applicant meets all eligibility conditions, whichever is later.

.111 (Continued)

.112 (Continued)

.113 (Continued)

.114 The BDA shall be the date of application or date of eligibility, whichever is later, for persons whose eligibility determination remains pending and aid is granted to the remaining AU.  
(Continued)

.6 Intraprogram Status Changes

.61 (Continued)

.62 Transfers Between AFDC (FG or U) and AFDC-FC

*.621 Where a child receiving AFDC-FC moves to the home of a parent or relative and becomes part of an AFDC-FC/U AU, the effective date of change is* The BDA for a child converting from AFDC-FC to AFDC-FC or U shall be the date he/she is placed in his/her parent's or relative's home or the date eligibility conditions are met, whichever is later. (Continued)

Authority Cited: Sections 10553, 10554, 10604, and 11209, Welfare and Institutions Code.

Reference: Sections 10553, 10554, 10604, and 11056, Welfare and Institutions Code; 45 CFR 206.10; 45 CFR 233.10(a)(1); 45 CFR 233.20(a)(1)(ii); 45 CFR 233.60; and 45 CFR 233.90(c)(2)(i); and Section 3510 (October 1961), Federal Handbook of Public Assistance Administration.



Adopt new Section 44-318 to read:

44-318 BEGINNING DATE OF AID (BDA) FOR PERSONS BEING ADDED TO THE AU

44-318

.1 Beginning Date of Aid

The BDA shall be:

.11 Mandatorily  
Included Persons

The date the person joins the AU or the date all eligibility requirements are met, whichever is later, for a person who is required to be included in the AU.

.12 Optional Persons

The date of application or the date all eligibility requirements are met, whichever is later, for a person who has the option to be included in the AU.

.13 Sanctioned/  
Noncooperating Persons

The date the person meets the requirement which caused that person to be excluded from the AU, or the date the person meets all eligibility conditions, whichever is later.

.14 Unreported Mandatorily  
Included Person

The date the person meets all requirements for eligibility when he/she is required to be included in the AU but aid was not requested. Eligibility conditions are considered to have been met from the date the individual was discovered in the home, providing he/she is cooperating in meeting those conditions.

.15. Newborn Child

The date of birth for a newborn child when his/her mother received pregnancy special need or the date all eligibility requirements are met, whichever is later.

.16 Father of a Newborn

The date the newborn child becomes eligible, or the date the father meets eligibility conditions, whichever is later.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11056, Welfare and Institutions Code; 45 CFR 233.10 and .20(a)(13); Federal Register, Vol. 57, No. 131; and SSA-AT-86-01.

Amend Section 44-350.15 to read:

44-350 OVERPAYMENTS -- GENERAL

44-350

.1 General (Continued)

- .15 An overpayment is ~~that~~ any amount of any aid payment an ~~assistance unit~~ AU ~~has~~ received to which it ~~is~~ was not eligible. An overpayment may be all or a portion of an aid payment. This includes, but is not limited to, an immediate need payment, a special need payment or aid paid pending a state hearing. ~~(See 14 below)~~ (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11056, Welfare and Institutions Code.

Adopt new Section 44-355 to read:

44-355 MANDATORY INCLUSION OVERPAYMENT/UNDERPAYMENT

44-355

.1 Mandatory Person -  
Presence Unknown

The county shall complete the following  
when a person required to be included in  
the AU is discovered in the home.

.11 Reinform AU

Upon discovery, reinform the AU in  
writing that the discovered person is  
required to be included on the  
appropriate Statement of Facts. The  
reinforming date is the date the  
reinforming notice is mailed.

.12 Retroactive Period

The period beginning with the date the  
person was required to be included in the  
AU and ending with the date the AU was  
reinformed.

.13 Redetermine Eligibility

Redetermine the eligibility of the AU for  
each month the person was required to be  
included in the AU but was not included.

.131 Income/Resources

Include the person's income and  
resources.

.132 Needs

Include the person's needs.

.14 Recompute Grant

For the period specified in Section 44-  
355.12, recompute the grant for the AU.

.141 Income

Include the person's income and  
resources.

.142 Needs

Include the person's needs.

.15 Recover Overpayment

Initiate recovery of an overpayment as  
specified in Section 44-352 for any month  
in which aid was overpaid.

.16 Correct Underpayment

Correct an underpayment as specified in  
Section 44-340 for any month in which aid  
was underpaid. Payment shall be made  
only for months in which all technical  
conditions of eligibility, as defined in  
Section 44-317.112(a), are met.  
Technical conditions of eligibility are  
considered to be met as of the date the  
person who was required to be included in  
the AU provided:

.161 Cooperates

The person is cooperating in meeting those conditions and

.162 Reporting Responsibilities

The caretaker relative has fulfilled his/her reporting responsibilities with regard to making timely and accurate reports of AU composition in accordance with Section 40-105.14.

.2 Current Eligibility

Redetermine eligibility for the AU as of the date the AU was reformed in accordance with Section 44-355.11 that the additional person is required to be in the AU. Use the additional person's income, resources and needs when making this redetermination.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11056, Welfare and Institutions Code; 45 CFR 233.20(a)(13); and SSA-AT-86-01.

Amend Section 80-301 to read:

80-301 DEFINITIONS

80-301

The following definitions apply to the regulations in Divisions 40 through 50 and 80 through ~~§§~~82.

(a). (1) Aid Payment

"Aid Payment" means any payment made to an AU.

(12) (Continued)

(23) (Continued)

(34) (Continued)

(45) (Continued)

(56) Alternatively  
Sentenced  
Parent (ASP)

"ASP" means a parent who is a convicted offender permitted to live at home while serving a court-imposed sentence that requires performing unpaid community service or unpaid public work during the workday precludes the parent from providing support through paid employment.

(67) (Continued)

(78) (Continued)

(89) (Continued)

(b). (1) ~~Reserved~~  
Beginning Date  
of Aid (BDA)

"BDA" means the effective date that cash aid starts.

(c). (1) (Continued)

(2) (Continued)

(3) Collect

"Collect" means to regain AFDC funds which are overpaid to a person by using collection methods other than grant adjustments.

(34) (Continued)

~~(d)~~. (1) ~~Reserved~~  
Date of Application

"Date of Application" means the date the applicant or the applicant's representative signs the application or the date the county receives the signed application, whichever is later.

~~(e)~~. and ~~(f)~~. (Continued)

~~(g)~~. (1) and (2) Continued

(3) Grant Adjust

"Grant Adjust" means to regain AFDC funds which were overpaid to an AU by reducing the aid payment.

~~(h)~~. (1) (Continued)

~~(i)~~. ~~Reserved~~

(1) Immediate Need Payment

"Immediate Need Payment" means an aid payment made in advance of a completed determination of eligibility for AFDC when specific criteria are met.

~~(j)~~. through ~~(q)~~. (Continued)

~~(r)~~. (1) (Continued)

(2) Recover

"Recover" means to grant adjust or collect an overpayment.

~~(s)~~. (1) and (2) (Continued)

(3) Senior Parent

"Senior Parent" means the parent of a minor parent when the minor parent receives aid for his/her child or the parent of a minor pregnant woman. (Continued)

~~(t)~~. through ~~(z)~~. (Continued)

Authority Cited: Sections 10553, 10554, and 10604 Welfare and Institutions Code.

Reference: (As listed below:)

TERM	PREVIOUS CITE	REFERENCE
Aid to Families With Dependent Children (AFDC)	40-103.84	45 CFR 201.3 and Sections 10553 and 10554, Welfare and Institutions Code.

Aid to Families With Dependent Children - Foster Care (AFDC-FC)	40-103.843	Sections 10553, 10554, and 11400(a), Welfare and Institutions Code.
Aid to Families With Dependent Children - Family Group (AFDC-FG)	40-103.841	Section 11250, Welfare and Institutions Code.
Aid to Families With Dependent Children-Unem- ployed Parent (AFDC-U)	40-103.842	Section 11201, Welfare and Institutions Code.
<u>Aid Payment</u>	<u>N/A</u>	
Alternatively Sentenced Parent (ASP)	N/A	45 CFR 233.90(c)(1)(iii).
Applicant	40-103.5	45 CFR 206.10 and Sections 11023.5 and 11051 Welfare and Institutions Code.
Applicant Child	N/A	45 CFR 206.10 and Sections 10553 and 10554, Welfare and Institutions Code.
Assistance Unit	N/A	45 CFR 233.90, 42 USCA 602(a)(38), and SSA-AT- 86-01.
<u>Beginning Date of Aid</u>	<u>N/A</u>	<u>Section 11266, Welfare and Institutions Code.</u>
Caretaker Relative	N/A	42 USCA 606(a), 45 CFR 233.90(c)(1)(v), and Section 11203, Welfare and Institutions Code.
Child	N/A	45 CFR 233.90(c)(1)(i).
<u>Collect</u>	<u>N/A</u>	
County	40-103.7	Section 10058, Welfare and Institutions Code.
<u>Date of Application</u>	<u>N/A</u>	<u>45 CFR 206.10(b)(3).</u>
Eligible Child	44-203.11	45 CFR 233.90(c)(1)(i) and Section 11203, Welfare and Institutions Code.
Essential Person (EP)	N/A	45 CFR 233.20(a)(2)(vi) and 45 CFR 237.50(c).



Filing Unit	N/A	45 CFR 206.10(a)(1)(vii).
GAIN	N/A	45 CFR 255 and Section 11320, Welfare and Institutions Code.
GED	N/A	Sections 10553 and 10554, Welfare and Institutions Code.
<u>Grant Adjust</u>	<u>N/A</u>	
Half-Sibling	N/A	45 CFR 206.10(a)(1)(vii) and 45 CFR 233.90(c)(1)(v).
<u>Immediate Need Payment</u>	<u>N/A</u>	<u>Section 11266, Welfare and Institutions Code.</u>
Mandatory Inclusion	N/A	45 CFR 226.10(a)(1)(viii), and Sections 10553 and 10554, Welfare and Institutions Code.
Medical Verification of Pregnancy	44-205.642	45 CFR 233.90(c)(2)(iv) and Section 11450, Welfare and Institutions Code.
Minor Parent	43-103.2 44-133.711	45 CFR 233.20(a)(3)(xviii) and Section 11008.14, Welfare and Institutions Code.
Optional Persons	N/A	45 CFR 233.20(a)(2)(vi) and 45 CFR 237.50(c).
Otherwise Eligible	N/A	Sections 10553, 10554, and 10604, Welfare and Institutions Code.
Parent	41-403.1	45 CFR 237.50(b)(3)(ii) and Section 11203, Welfare and Institutions Code.
Pregnant Woman	44-205.6	45 CFR 233.90(c)(2)(iv) and Section 11008.14, Welfare and Institutions Code.
Public Hospital	42-503.51	45 CFR 233.60(b)(3) and (5) and Section 11269, Welfare and Institutions Code.
Recipient	40-189.11	45 CFR 233.10(a)(1) and Section 11450, Welfare and Institutions Code.
<u>Recover</u>	<u>N/A</u>	
Sanction	N/A	45 CFR 224.51 and 45 CFR 232.12(d)(1).
Second Parent	N/A	Sections 10553 and 10554, Welfare and Institutions Code.
Senior Parent	N/A	45 CFR 233.20 and Sections 10553 and 10554, Welfare and Institutions Code.

Sibling	N/A	Sections 10553 and 10554, Welfare and Institutions Code.
Sponsored Alien	43-119.11	45 CFR 233.20(a)(3)(xv) and 45 CFR 233.51 and Section 11008.13, Welfare and Institutions Code.
State Department of Social Services (SDSS)	N/A	Section 10054, Welfare and Institutions Code.
Statement of Facts	N/A	Sections 10553, 10554, and 11054, Welfare and Institutions Code.
State-only AFDC	N/A	Section 11450(b), Welfare and Institutions Code.
Stepparent	43-103.3	45 CFR 233.20(a)(3)(xiv) and Section 11008.14, Welfare and Institutions Code.
Strike	41-701.21	45 CFR 233.106 and Section 11250.4, Welfare and Institutions Code.
Striker	41-701.23	45 CFR 233.106 and Section 11250.4, Welfare and Institutions Code.
SSI/SSP Child	N/A	45 CFR 233.90.

Amend Section 80-310 to read:

80-310 DEFINITIONS - FORMS

80-310

The following forms apply to the regulations in Divisions 40 through 50 and 80 through 82.

(a) through (b). (Reserved)

(c). (1) CA 7

The "Monthly Eligibility Report" (Rev. 1/93) is used to gather information monthly to determine ongoing AFDC eligibility. The CA 7 may also be used as the application for converting State-only cases to federal AFDC and requesting AFDC for an optional person.

(12) (Continued)

(23) (Continued)

(34) (Continued)

(45) (Continued)

(56) (Continued)

(67) (Continued)

(78) (Continued)

(d) through (r). (Continued)

(s). (1) SAWS 1

The "Application for Cash Aid, Food Stamps and/or Medical Assistance" (Rev. 9/90) is used to request public assistance, including AFDC.

(12) (Continued)

(3) SAWS 7

The "Monthly Eligibility Report" (Rev. 4/90) is used in place of the CA 7 and is mandatory in fully automated SAWS counties and optional in all other counties.

(t) through (z). (Continued)

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: 45 CFR 206.10(a)(8) and Section 11054, Welfare and Institutions Code.

Adopt new Section 82-610 to read:

82-610 POTENTIALLY AVAILABLE INCOME

82-610

.1 Eligibility Condition

The county shall deny or discontinue aid when an AU member fails to seek or accept potentially available income as follows:

.11 Mandatory

The county shall deny or discontinue the entire AU when the person is a mandatorily included AU member.

.12 Optional

The county shall deny or discontinue the person when he/she is an optional person.

.2 Applicants

The requirement to seek or accept potentially available income shall be considered to have been met on the date of application when it is completed by the date of authorization of aid.

.3 Definition

Potentially available income is any income the recipient is entitled to receive.

HANDBOOK BEGINS HERE

.4 Sources of Potentially Available Income

Sources of potentially available income shall include, but are not limited to:

.41 Social Insurance Benefits

Old Age Security and Disability Insurance (OASDI), Unemployment Insurance Benefits, Disability Insurance Benefits.

.42 Military Benefits

Benefits available to veterans of military service, members of military service, their spouses and their dependents.

.43 Retirement Benefits

Railroad retirement benefits, union retirement benefits, or private pension benefits.

.44 Insurance Benefits

Life insurance disability benefits.

.45 Worker's Compensation

Worker's compensation benefits.

.46 Debts

Any outstanding debts owed the recipient.

HANDBOOK ENDS HERE

.5 Applicant/Recipient Responsibility

The applicant/recipient shall take all actions necessary to obtain potentially available income.

.6 Evidence

The applicant or recipient shall provide evidence to the county that all actions necessary to obtain potentially available income have been taken.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11270, Welfare and Institutions Code and 45 CFR 233.20(a)(3)(ix).

Adopt new Section 82-612 to read:

82-612 UNEMPLOYMENT INSURANCE BENEFITS (UIB)

82-612

- |                                       |  |
|---------------------------------------|--|
| <u>.1 Eligibility Conditions</u>      | <u>The county shall deny or discontinue aid to the AU when a mandatorily included person whom the county has referred to EDD pursuant to Section 82-612.5 below:</u>   |
| <u>.11 Apply</u>                      | <u>Fails to apply for UIB or</u>   |
| <u>.12 Accept</u>                     | <u>Fails to accept UIB or</u>  |
| <u>.13 Meet Conditions</u>            | <u>Fails without good cause to meet the conditions of eligibility for UIB.</u>   |
| <u>.2 Applicants</u>                  | <u>Applicants meet the requirement to apply for or accept UIB on the date of application when it is completed by the date of authorization of aid.</u>   |
| <u>.3 Date of Discontinuance</u>      | <u>The county shall discontinue the AU on the last day of the month in which a person who is required to apply for or accept UIB fails to do so, or fails to meet one of the eligibility conditions in Section 82-612.7.</u> |
| <u>.4 Reestablish UIB Eligibility</u> | <u>The county shall continue aid when the mandatorily included person reestablishes eligibility for UIB in the same month that he/she is disqualified for UIB.</u>   |
| <u>.5 Referral to EDD</u>             | <u>The county shall refer mandatorily included persons who are apparently eligible for UIB and who have not applied for UIB, to EDD to apply for UIB.</u>  |
| <u>.6 Apparently Eligible</u>         | <u>The county shall not refer a person to EDD who:</u>   |
| <u>.61 Not Worked</u>                 | <u>Has not worked in employment covered by the Unemployment Insurance Compensation Law in the past 19 months.</u>  |
| <u>.62 Receiving UIB/DIB</u>          | <u>Is receiving UIB/Disability Insurance benefits (DIB), has a UIB/DIB claim which is being processed or has exhausted his/her UIB/DIB.</u>  |

<u>.63</u>	<u>Ill or Injury</u>	<u>Is ill or injured as specified in Section 42-630.3.</u>
<u>.64</u>	<u>Previously Denied</u>	<u>Has previously been denied or discontinued from UIB and has no subsequent employment which would change the previous determination.</u>
<u>.65</u>	<u>Employed</u>	<u>Is employed forty hours a week.</u>
<u>.66</u>	<u>Striking</u>	<u>Is participating in a strike.</u>
<u>.7</u>	<u>Conditions of Eligibility for UIB</u>	<u>An applicant or recipient meets conditions of eligibility by meeting the requirements in Section 1253 of the Unemployment Insurance Code (UIC).</u>

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HANDBOOK BEGINS HERE

<u>.71</u>	<u>UIC Section 1253</u>	<u>UIC 1253 states, in part:</u>
		<u>"An unemployed individual is eligible to receive unemployment compensation benefits with respect to any week only if the Director finds that:</u>
<u>.711</u>		<u>"A claim for benefits with respect to that week has been made in accordance with authorized regulations.</u>
<u>.712</u>		<u>"He has registered for work, and thereafter continued to report, at a public employment office or such other place as the Director may approve. Either or both of the requirements of this subdivision may be waived or altered by authorized regulations as to partially employed individuals attached to regular jobs.</u>
<u>.713</u>		<u>"He was able to work and available for work for that week.</u>
<u>.714</u>		<u>"He has been unemployed for a waiting period of one week as defined in Section 1254.</u>
<u>.715</u>		<u>"He conducted a search for suitable work in accordance with specific and reasonable instructions of a public employment office."</u>

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HANDBOOK ENDS HERE



Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11270, Welfare and Institutions Code and 45 CFR  
233.20(a)(3)(ix).

Adopt new Section 82-614 to read:

82-614 GOOD CAUSE FOR FAILING TO MEET UIB CONDITIONS OF ELIGIBILITY

82-614

.1 Determination

The county shall determine whether good cause exists for an applicant or recipient who fails to meet conditions of eligibility for UIB when:

.11 Apparently Eligible

The applicant or recipient is apparently eligible for UIB, and

.12 Work Registration

The applicant or recipient is required to register for work.

.2 Criteria

Good cause shall be established when the applicant or recipient meets one of the criteria of the United States Department of Labor and United States Department of Health and Human Services WIN Handbook, Fourth Edition, Chapter 10, Section 10, Subsection d (Rev. 6/84).

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HANDBOOK BEGINS HERE

.21 WIN Handbook

The WIN Handbook states, in part:

"Examples of good cause may include, but are not limited to:

.211

"Illness or incapacity;

.212

"Court-related appearance or incarceration;

.213

"Emergency family crisis or sudden change of immediate family circumstances;

.214

"Breakdown in transportation arrangements with no readily accessible alternate means of transportation;

.215

"Inclement weather which prevented the registrant or other person similarly situated from traveling to, or participating in the prescribed activity;

- .216 "Breakdown in the child care arrangement or availability of child care not suited for special needs of child for when it is intended; handicapped or retarded child;
- .217 "Lack of other necessary social services, even though not specifically included in the local or State WIN Plan;
- .218 "The assignment or job referral does not meet the appropriate work and training criteria [this includes when the person fails to meet UIB eligibility conditions due to GAIN activities];
- .219 "Refusal to accept major medical services even if such refusal precludes participation in the program."

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HANDBOOK ENDS HERE

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Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11270, Welfare and Institutions Code and 45 CFR 233.20(a)(3)(ix).

Amend Sections 82-808.11 and .111 to read:

82-808 CARETAKER RELATIVE REQUIREMENTS

82-808

.1 Relationship of a  
Caretaker Relative

The caretaker relative shall be related to the applicant/eligible child as specified below.

.11 Degree of  
Relatedness

The caretaker relative ~~shall be one of the following~~ may be any relation by blood, marriage or adoption who is within the fifth degree of kinship to the dependent child. (See Appendix A)/.

.111 Biological  
Relatives

A father/ mother/ brother/ sister/ uncle/ aunt/ first cousin/ nephew/ niece/ or any such person denoted by the prefix half/ or of a preceding generation denoted by the prefixes grand/ great/ and great/ great/ or

The acceptable caretaker relative shall be a parent (1st degree), grandparent (2nd degree), sibling (2nd degree), great-grandparent (3rd degree), uncle or aunt (3rd degree), nephew or niece (3rd degree), great-great grandparent (4th degree), great-uncle or aunt (4th degree), first cousin (4th degree), great-great-great grandparent (5th degree), great-great uncle or aunt (5th degree), or a first cousin once removed (5th degree).

HANDBOOK BEGINS HERE

(a)

If A and B are first cousins, B's children are first cousins once removed to A and A's children are first cousins once removed to B. A's children and B's children are second cousins.

HANDBOOK ENDS HERE

.112 Step-Relatives

(Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 42 USCA 606/; 45 CFR 206.10/; 45 CFR 206.10(a)(8)/; 45 CFR 233.90/; 45 CFR 233.90(c)(1)(iii)/; 45 CFR 233.90(c)(1)(v)/; 45 CFR 233.90(c)(1)(v)(A)/; and 45 CFR 233.90(c)(2)/; Federal Register, Vol. 45, Page 58125, September 2, 1980/; 45 CFR 237.50(b)(2); SSA-AT-86-01; ACF-AT-91-33; and Sections 10553, 10554, 10604, 11203, and 11450, Welfare and Institutions Code.

Amend Section 82-820.24 to read:

82-820 INCLUDED PERSONS (Continued)

82-820

.2 Minimum Requirements

An AU shall have at least: (Continued)

.24 ~~Parent~~ Relative of GAIN  
Sanctioned Child

A ~~parent~~ relative of a child who is  
sanctioned by GAIN. (Continued)

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: 42 USCA 606; ~~45 CFR 206.10(a)(1)(iv) and (vii)~~ 45 CFR 233.10(a)(1) ~~and~~  
(a)(1)(iv) and (vii); ~~and~~ 45 CFR 233.90; 45 CFR 250.34; SSA-AT-  
86-01; and Sections 10553, 10554, 10604, 11000, and 11450,  
Welfare and Institutions Code.

Amend Section 82-824.12 to read:

82-824 ASSISTANCE UNITS THAT SHALL BE COMBINED

82-824

1. (Continued)

.12 Child in Common

Two caretaker relatives in the home have separate children and also have an eligible child in common. (Continued)

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: 45 CFR 206.10(a)(1); 45 CFR 233.90; 45 CFR 237.50(b)(5); SSA-AT-86-01; Section 242, California Civil Code; and Edwards v. Healy, Civ. S. 91-1473 DFL (1992); Sections 10553, 10554, 10604, 11000, and 11450, Welfare and Institutions Code; and Edwards v. Healy, Civ. S. 91-1473 DFL (1992).

# RESUBMITTAL

## NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

original  
For use by Secretary of State only

AGENCY California Department of Social Services				AGENCY FILE NUMBER (If any) RDB #0991-46	
OAL FILE NUMBERS	NOTICE FILE NUMBER Z91-1224-09	REGULATORY ACTION NUMBER 92-1117-01S	EMERGENCY NUMBER 93-0503-01R	PREVIOUS REGULATORY ACTION NUMBER 92-1117-01S	

For use by Office of Administrative Law (OAL) only

1993 MAY -3 AM 9 21

ENDORSED  
APPROVED FOR FILING  
AND PUBLICATION

JUN 15 1993

NOTICE

REGULATIONS

**FILED**

in the office of the Secretary of State  
of the State of California

JUN 15 1993

At 3:40 O'clock P.M.  
MARCH FONG EU, Secretary of State

By Susan J. Ward  
Deputy Secretary of State

### A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. TOPIC OF NOTICE Continued Operation of a CCF or CDCF by an Adult Relative		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed <input type="checkbox"/> Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER 92-1117-2	PUBLICATION DATE 1-3-92	

### B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

#### 1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

TITLE(S) 22	ADOPT
SECTIONS AFFECTED	AMEND 80001, 80035, 87001, 87035, 87801, 87835, 101152 and 101186
	REPEAL

#### 2. TYPE OF FILING

☐ Regular Rulemaking (Gov. Code, § 11346) ☒ Resubmittal ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) ☐ Emergency (Gov. Code, § 11346.1(b))

☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only ☐ Other (specify)

#### 3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

March 26, 1993 to April 12, 1993

#### 4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☒ Effective 30th day after filing with Secretary of State ☐ Effective on filing with Secretary of State ☐ Effective other (Specify)

#### 5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☐ Department of Finance (Form STD. 399) ☐ Fair Political Practices Commission ☐ State Fire Marshal

☐ Other (Specify)

6. CONTACT PERSON	TELEPHONE NUMBER
-------------------	------------------

7. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE <u>Eloise Anderson</u>	DATE APR 30 1993
TYPED NAME AND TITLE OF SIGNATORY Eloise Anderson, Director	



**NOTICE PUBLICATION/REGULATIONS SUBMISSION**

STD. 400 (REV. 2-91) ( REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE  
AND SUBMISSION OF REGULATIONS**

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

**ALL FILINGS**

Enter the agency name and agency file number, if any.

**NOTICES**

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

**REGULATIONS**

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

**RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS**

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

**EMERGENCY REGULATIONS**

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

**NOTICE FOLLOWING EMERGENCY ACTION**

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

**CERTIFICATE OF COMPLIANCE**

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

**EMERGENCY REGULATIONS - READOPTION**

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

Amend Section 80001 to read:

80001 DEFINITIONS (Continued)

80001

(c) (1) - (10) (Continued)

(11) "Control of Property" means the right to enter, occupy, and maintain the operation of the facility property within regulatory requirements. Evidence of control of property may include, but is not limited to the following:

(A) a Grant Deed showing ownership; or

(B) the lease agreement or rental agreement; or

(C) a court order or similar document which shows the authority to control the property pending outcome of a probate proceeding or an estate settlement.

(d) (Continued)

(e) (1) "Elderly Person". (Continued)

(2) "Emergency Approval to Operate" (LIC 9117 4/93) (EAO) means a temporary approval to operate a facility for no more than 60 days pending the Department's decision on whether to approve or deny a provisional license.

(3) Evaluator. (Continued)

(4) "Evidence of Licensee's Death" shall include, but is not limited to, a copy of the death certificate, obituary notice, certification of death from the decedent's mortuary or a letter from the attending physician or coroner's office verifying the licensee's death.

(5) Exception. (Continued)

(6) Exemption. (Continued)

(7) Existing Facility. (Continued)

(f) through (z) (Continued)

Authority Cited: Sections 1502.2, 1524(e) and 1530, Health and Safety Code.

Reference: Section 1501, 1502, 1502(a)(7), 1502.2, 1503, 1503.5, 1505, 1507, 1508, 1509, 1511, 1520, 1522, 1524, 1524(e), 1525, 1525.5, 1526, 1527, 1530, 1530.5, 1531, 1533, 1534, 1536.1, 1537, 1538.5, 1550, 1551, 1556, and 11834.11, Health and Safety Code; and Sections 5453, 5458, and 11006.9, Welfare and Institutions Code.

Amend Section 80035 to read:

80035 CONDITIONS FOR FORFEITURE OF A COMMUNITY CARE FACILITY LICENSE

80035

(a) (Continued)

HANDBOOK BEGINS HERE

(~~A~~1) (Continued)

HANDBOOK ENDS HERE

(1) (Continued)

(A) (Continued)

(B) (Continued)

(b) If the facility licensee dies, an adult relative who has control of the property shall be permitted to operate a previously licensed facility under an Emergency Approval to Operate (LIC 9117 4/93) (EAO) providing the following conditions are met:

(1) The relative or an adult acting on the relative's behalf notifies the Department by telephone during the first working day after the licensee's death that the relative intends to operate the community care facility.

(2) The relative files with the Department within five days of the licensee's death an Application for License (LIC 200 7/91) and evidence of the licensee's death as defined in Section 80001(e) (4).

(A) Notwithstanding the instructions on the Application for License (LIC 200 7/91), the Department shall permit the relative to submit only the information on the front side of that form.

(3) The relative files with the California Department of Justice within five calendar days of the licensee's death his/her fingerprint cards.

(c) If the adult relative complies with (b) (1) and (2) above, he/she shall not be considered to be operating an unlicensed facility pending the Department's decision on whether to approve a provisional license.

(d) The Department shall make a decision within 60 days after the application is submitted on whether to issue a provisional license pursuant to Section 80030.

(1) A provisional license shall be granted only if the Department is satisfied that the conditions specified in (b) above and Section 80030 have been met and that the health and safety of the residents of the facility will not be jeopardized.

Authority Cited: Sections 1524(e) and 1530, Health and Safety Code.

Reference: Section 1524 and 1524(e), Health and Safety Code.

Amend Sections 87001(c), (e) and (s) to read:

87001 DEFINITIONS (Continued)

87001

a. (Continued)

b. (Continued)

c. (1) through (8) (Continued)

(9) "Control of Property" means the right to enter, occupy, and maintain the operation of the facility property within regulatory requirements. Evidence of control of property may include, but is not limited to the following:

(A) a Grant Deed showing ownership; or

(B) the lease agreement or rental agreement; or

(C) a court order or similar document which shows the authority to control the property pending outcome of a probate proceeding or an estate settlement.

d. (Continued)

e. (1) (Continued)

(2) "Emergency Approval to Operate" (LIC 9117 4/93) (EAO) means a temporary approval to operate a facility for no more than 60 days pending the Department's decision on whether to approve or deny a provisional license.

(3) "Evidence of Licensee's Death" shall include, but is not limited to, a copy of the death certificate, obituary notice, certification of death from the decedent's mortuary or a letter from the attending physician or coroner's office verifying the licensee's death.

(24) (Continued)

(35) (Continued)

(46) (Continued)

f. through (s) (4) (Continued)

s. (5) "Substantial Compliance" means the absence of any serious deficiencies.

Authority Cited: Sections 1530 and 1530.5, Health and Safety Code.

Reference: Sections 17710 and 17731, Welfare and Institutions Code and Sections 1501, 1502, 1503.5, 1505, 1507, 1507.5, 1520, 1522, 1524, 1524(e), 1525.1, 1526, 1526.5, 1527, 1530, 1530.5, 1531, 1531.5, 1533, 1534, 1536.1, 1537, 1550, 1551, and 11834.11, Health and Safety Code.

Amend Section 87035 to read:

87035 CONDITIONS FOR FORFEITURE OF A FOSTER FAMILY HOME LICENSE

87035

(a) (Continued)

HANDBOOK BEGINS HERE

(~~A~~1) (Continued)

HANDBOOK ENDS HERE

(1) (Continued).

(A) (Continued)

(B) (Continued)

(b) If the facility licensee dies, an adult relative who has control of the property shall be permitted to operate a previously licensed facility under an Emergency Approval to Operate (LIC 9117 4/93) (EAO) providing the following conditions are met:

(1) The relative or an adult acting on the relative's behalf notifies the Department by telephone during the first working day after the licensee's death that the relative intends to operate the community care facility.

(2) The relative files with the Department within five calendar days of the licensee's death an Application for License (LIC 283 12/91) and evidence of the licensee's death as defined in Section 87001(e) (3).

(A) Notwithstanding the instructions on the Application for License (LIC 283 12/91), the Department shall permit the relative to submit only the information on the front side of that form.

(3) The relative files with the California Department of Justice within five calendar days of the licensee's death his/her fingerprint cards.

(c) If the adult relative complies with (b) (1) and (2) above, he/she shall not be considered to be operating an unlicensed facility pending the Department's decision on whether to approve a provisional license.

(d) The Department shall make a decision within 60 days after the application is submitted on whether to issue a provisional license pursuant to Section 87030.

(1) A provisional license shall be granted only if the Department is satisfied that the conditions specified in (b) above and Section 87030 have been met and that the health and safety of the residents of the facility will not be jeopardized.

Authority Cited: Sections 1523, ~~and~~ 1524(e), 1530, and 1530.5, Health and Safety Code.

Reference: Sections 1523, ~~and~~ 1524 and 1524(e), Health and Safety Code.

Amend Section 87801 to read:

87801 DEFINITIONS (Continued)

87801

c. (1) - (8) (Continued)

(9) "Control of Property" means the right to enter, occupy, and maintain the operation of the facility property within regulatory requirements. Evidence of control of property may include, but is not limited to the following:

(A) a Grant Deed showing ownership; or

(B) the lease agreement or rental agreement; or

(C) a court order or similar documents which shows the authority to control the property pending outcome of a probate proceeding or an estate settlement.

d. (Continued)

e. (1) "Emergency Approval to Operate" (LIC 9117 4/93) (EAO) means a temporary approval to operate a facility for no more than 60 days pending the Department's decision on whether to approve or deny a provisional license.

(12) (Continued)

(3) "Evidence of Licensee's Death" shall include, but is not limited to, a copy of the death certificate, obituary notice, certification of death from the decedent's mortuary or a letter from the attending physician or coroner's office verifying the licensee's death.

(24) (Continued)

(35) (Continued)

f. through l. (Continued)

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.061, 1568.064 and 1568.072, Health and Safety Code.



87835 CONDITIONS FOR FORFEITURE OF A RESIDENTIAL CARE FACILITY 87835

FOR THE CHRONICALLY ILL LICENSE

(a) (continued)

(b) If the facility licensee dies, an adult relative who has control of the property shall be allowed to continue operation a previously licensed facility under the an Emergency Approval to Operate (LIC 9117 4/93) (EAO) providing the following conditions are met:

(1) The Department receives notification of the death during the next 48 hours and is informed of the facility's status to continue operation. The Department shall be allowed to continue operation a previously licensed facility under the an Emergency Approval to Operate (LIC 9117 4/93) (EAO) providing the following conditions are met:

The relative or an adult acting on the relative's behalf notifies the Department by telephone during the first working day after the licensee's death that the relative intends to operate the community care facility.

(2) The relative files an application within five days of the date of the licensee's death and provides the following information:

The relative files with the Department within five calendar days of the licensee's death an application for license (LIC 200 7/91) and evidence of the licensee's death as defined in Section 87801(e)(3).

(A) Notwithstanding the instructions on the Application for License (LIC 200 7/91), the Department shall permit the relative to submit only the information on the front side of that form.

(3) The relative files with the California Department of Justice within five calendar days of the licensee's death his/her fingerprint cards.

(c) (continued)

(d) The Department shall make a decision within 60 days after the application is submitted on whether to issue a provisional license pursuant to Section 87830, Health and Safety Code.

(1) A provisional license shall be granted only if the Department is satisfied that the conditions specified in (b) above and Section 87830 have been met and the health and safety of the residents of the facility will not be jeopardized.

Authority cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.061, 1568.061(e), 1568.064, and 1568.072, Health and Safety Code.

Amend Section 101152 to read:

101152 DEFINITIONS (Continued)

101152

a. and b. (Continued)

c. (1) through (5) (Continued)

(6) "Control of Property" means the right to enter, occupy, and maintain the operation of the facility property within regulatory requirements. Evidence of control of property may include, but is not limited to the following:

(A) a Grant Deed showing ownership; or

(B) the lease agreement or rental agreement; or

(C) a court order or similar document which shows the authority to control the property pending outcome of a probate proceeding or an estate settlement.

d. (Continued)

e. (1) "Emergency Approval to Operate" (LIC 9117 4/93) (EAO) means a temporary approval to operate a facility for no more than 60 days pending the Department's decision on whether to approve or deny a provisional license.

(12) "Evaluator". (Continued)

(3) "Evidence of Licensee's Death" shall include, but is not limited to, a copy of the death certificate, obituary notice, certification of death from the decedent's mortuary or a letter from the attending physician or coroner's office verifying the licensee's death.

(24) (Continued)

(75) (Continued)

(46) (Continued)

f. through z. (Continued)

Authority Cited: Sections 1596.81 and 1596.858(e), Health and Safety Code.

Reference: Sections 1502, 1596.72, 1596.73, 1596.74, 1596.75, 1596.750, 1596.76, 1596.77, 1596.770, 1596.78, 1596.79, 1596.790, 1596.791, ~~and~~ 1596.81, and 1596.858(e), Health and Safety Code; and Section 11006.9, Welfare and Institutions Code.

Amend Section 101186 to read:

101186 CONDITIONS FOR FORFEITURE OF A CHILD DAY CARE FACILITY LICENSE

101186

(a) (Continued)

HANDBOOK BEGINS HERE

(1) (Continued)

HANDBOOK ENDS HERE

(2) (Continued)

(A) (Continued)

(B) (Continued)

(b) If the facility licensee dies, an adult relative who has control of the property shall be permitted to operate a previously licensed facility under an Emergency Approval to Operate (LIC 9117 4/93) (EAO) providing the following conditions are met:

(1) The relative or an adult acting on the relative's behalf notifies the Department by telephone during the first working day after the licensee's death that the relative intends to operate the community care facility.

(2) The relative files with the Department within five calendar days of the licensee's death an Application for License (LIC 200A 8/92) and evidence of the licensee's death as defined in Section 101182(e)(3).

(A) Notwithstanding the instructions on the Application for License (LIC 200A 8/92), the Department shall permit the relative to submit only the information on the front side of that form.

(3) The relative files with the California Department of Justice within five calendar days of the licensee's death his/her fingerprint cards.

(c) If the adult relative complies with (b)(1) and (2) above, he/she shall not be considered to be operating an unlicensed facility pending the Department's decision on whether to approve a provisional license.

(d) The Department shall make a decision within 60 days after the application is submitted on whether to issue a provisional license pursuant to Section 101181.

(1) A provisional license shall be granted only if the Department is satisfied that the conditions specified in (b) above and Section 101181 have been met and that the health and safety of the residents of the facility will not be jeopardized.

Authority Cited: Sections 1596.81, and 1596.858(e) Health and Safety Code.

Reference: Sections 1596.845, and 1596.858, and 1596.858(e), Health and Safety Code.

## NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 2-91)

AGENCY

(See instructions on reverse)

For use by Secretary of State only

California Department of Social Services

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER
	Z92-1222-02	93-0601-051	93-0121-04E

AGENCY FILE NUMBER (If any)

RDB #0892-28

PREVIOUS REGULATORY ACTION NUMBER

For use by Office of Administrative Law (OAL) only

1993 JUN -1 AM 4:05

ENDORSED  
APPROVED FOR FILING  
AND PUBLICATION

JUN 25 1993

NOTICE

REGULATIONS

Office of Administrative Law

FILED

In the office of the Secretary of State  
of the State of California

JUN 25 1993

At 4:05 O'clock P. M.

MARCH FONG EU, Secretary of State

By Cynthia J. Pace

Deputy Secretary of State

## A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. TOPIC OF NOTICE <u>Miller II v. Woods</u>		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed <input type="checkbox"/> Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER <u>93-#1-2</u>	PUBLICATION DATE <u>1-1-93</u>

## B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

## 1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

TITLE(S)	ADOPT
MPP	Sec. 50-018.1 through 50-018.8
SECTIONS AFFECTED	AMEND
	REPEAL

## 2. TYPE OF FILING

- ☐ Regular Rulemaking (Gov. Code, § 11346) ☐ Resubmittal ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) ☐ Emergency (Gov. Code, § 11346.1(b))
- ☒ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only ☐ Other (specify) \_\_\_\_\_

## 3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

May 7, 1993 through May 24, 1993, Sections 50-018.1 through 50-018.8

## 4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

- ☐ Effective 30th day after filing with Secretary of State ☒ Effective on filing with Secretary of State ☐ Effective other (Specify) \_\_\_\_\_

## 5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

- ☒ Department of Finance (Form STD. 399) ☐ Fair Political Practices Commission ☐ State Fire Marshal
- ☐ Other (Specify) \_\_\_\_\_

## 6. CONTACT PERSON

Jim Rhoads, Assistant Chief, Regulations Development Bureau

TELEPHONE NUMBER

657-2586

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

Eloise Anderson

TYPED NAME AND TITLE OF SIGNATORY

Eloise Anderson, Director

DATE

JUN 1 1993

**NOTICE PUBLICATION/REGULATIONS SUBMISSION**

STD. 400 (REV. 2-91) ( REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE  
AND SUBMISSION OF REGULATIONS**

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

**ALL FILINGS**

Enter the agency name and agency file number, if any.

**NOTICES**

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

**REGULATIONS**

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

**RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS**

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

**EMERGENCY REGULATIONS**

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

**NOTICE FOLLOWING EMERGENCY ACTION**

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

**CERTIFICATE OF COMPLIANCE**

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

**EMERGENCY REGULATIONS - READOPTION**

When submitting previously approved emergency regulations for re adoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

Adopt New Section 50-018 to read:

50-018 MILLER v. WOODS

50-018

HANDBOOK BEGINS HERE

.1 Background

These regulations cover the retroactive payment and underpayment relief that must be implemented again. The first phase of the implementation, called Miller I, was from February 11, 1988 to July 19, 1991. The second phase, called Miller II, began on July 19, 1991, the date of the amended judgment. Below is an overview of the case, including the major implementation changes in Miller II from Miller I.

- .11 Court of appeal decision: In October of 1983, the Court of Appeal, Fourth Appellate District, invalidated Manual of Policies and Procedures (MPP) 30-463.233c (renumber MPP 30-763.233c) in Miller v. Woods, 148 Cal.App.3d 862. It ruled that otherwise eligible In-Home Supportive Services (IHSS) recipients were eligible for protective supervision when it was provided by their housemates. It ordered the State Department of Social Services (SDSS) to grant prospective and retroactive relief to the class.
- .12 Initial county welfare department (CWD) case review: On May 1, 1984, SDSS repealed MPP 30-763.233c and adopted MPP 30-763.6, which required CWDs to review their existing IHSS cases and to start paying for protective supervision provided by housemates.
- .13 Miller I judgment: On February 11, 1988, the San Diego Superior Court approved a final judgment. SDSS was required to notify potential class members and process claims for back payments to applicants, recipients, and their providers, who had been denied them under the invalidated regulation. There were two kinds of payments: retroactive payments from April 1979 through April 1984, and underpayments from May 1984 on.
- .14 Miller I implementation: In September 1988, SDSS adopted regulations (MPP 50-018) and started implementing the judgment. Implementation problems occurred, including the failure to send individual notices to some potential class members, returned notices, delays in sending notices, and insufficient notice of the right to claim underpayments.
- .15 Miller I judgment: To correct the implementation problems in Miller I, the Superior Court ordered SDSS to notify potential class members again and process claims for back payments. On July 19, 1991, it approved a final judgment which required certain implementation changes from the first judgment.
- .16 Miller II implementation changes: The Miller II regulations are generally similar to the Miller I regulations. There are several important changes based on the implementation problems in Miller I and the court's 1991 amended judgment in Miller II:



- (a) Individual notices: SDSS should send individual notices to all providers who lived at the same address as the recipient from January 1, 1980 through November 1988, including health and community care facilities, if necessary. (MPP 50-018.211)
- (b) Updating and remailing returned individual notices: SDSS should update addresses on all individual notices returned as undeliverable until ~~April 1~~ May 9, 1993, and remail any updated. The same deadline, based on the initial eight-month claiming period stipulated in MPP 50-018.22, shall apply.
- (c) Reopening late claims: SDSS should reopen and CWDs must process all claims denied solely because they were filed late and issue notices with claim forms to the claimants. (MPP 50-018.47)
- (d) Retroactive payments: All recipients and non-spouse housemate providers who filed a late claim in Miller I and were denied solely for late filing should have their claim reopened by SDSS and processed by CWDs for possible Miller II retroactive payments, for the period from April 1979 through April 1984; these individuals need not file another claim for retroactive payments under Miller II. (MPP 50-018.47) Any other recipients and non-spouse housemates who provided protective supervision for any time between April 1979 and April 1984, and did not file a Miller I claim, are eligible to file a claim for retroactive payments in Miller II. (MPP 50-018.411 and .412) Spouse recipients and providers may file a claim for the limited period from April 1979 to July 1981 in Miller II (MPP 50-018.331), and any claim after July 1981 will be denied under Miller v. Woods and referred to the Welfare Rights Organization (WRO) v. McMahon case. (MPP 50-018.491(a))
- (e) Underpayments: All non-spouse recipients and providers are eligible to file a claim for underpayments for the period from May 1984 through August 1985. (MPP 50-018.332, .413, and .49) Spouse recipients and providers may not file an underpayment claim in Miller II, and any claim for underpayments will be denied under Miller v. Woods and referred to the WRO v. McMahon case. (MPP 50-018.491(a))
- (f) Eight-month claim period: The claim period in Miller II should be eight months from the beginning of the mailing of individual notices with the last day to file claims September 30, 1993. This date ~~shall~~ should apply to remailings as well. (MPP 50-018.22)
- (g) Adverse information notices: CWDs may not deny claims solely because case records or other information contradicts information provided by the claimant on the Standard Claim Form or Supplemental Claim Form. They should send a "Notice of Action for Adverse Information", with a copy of relevant information from the case record or other source attached, and give the claimant 45 days to provide additional information. (MPP 50-018.446, 50-018.463, 50-018.521(a), .522(a), .523(a), and 50-018.633)



- (h) Forms: The forms have been changed to reflect the modifications required to implement Miller II, including the use of separate sets of the Standard Claim Form and Supplemental Claim Form for provider claimants and recipient claimants.
- (1) Use of Supplemental Claim Form: The CWDs should issue a Supplemental Claim Form to the claimant whenever the CWD is unable to locate either a previously approved IHSS case record or a record of denial. The information from the Supplemental Claim Form, completed as instructed by the county, will be used to examine the claimant's contention that the claimed recipient applied for and/or was denied IHSS during the retroactive claim period, as well as to determine the claimed recipient's income and resource eligibility for IHSS during the period claimed. (MPP 50-018.44 and .452)
- (2) If a Miller II claimant is sent a Notice of Action requesting the completion of either the Standard Claim Form or the Supplemental Claim Form, the claimant should have 45 days from the date of the Notice of Action to complete and mail the postmarked document to the CWD. (MPP 50-018.315 and .432)
- (i) Notice of Action: For each claim received, the CWD should issue a final Notice of Action for retroactive payments and/or underpayments, which is to contain information specified in MPP 50-018.631(a) through (h).
- (j) Monthly CMIPS reports: CMIPS should provide monthly reports on the status of each Miller I claim reopened as a result of being denied due to receipt by the CWD after the end of the Miller I claim period. The reports should contain information specified in MPP 50-018.73.
- (k) Related implementation of WRO v. McMahon: CWDs should be implementing relief in WRO v. McMahon at the same time as Miller II. WRO grants spouse recipients and providers back payments for protective supervision and transportation: retroactive payments from July 1, 1983 through September 10, 1984 and underpayments from October 1, 1984 through September 30, 1985. CWDs should treat some Miller II claims for payments under WRO when they extend beyond Miller II claim period for spouses. CWDs should insert a WRO claim form to accompany the Notice of Action for those who are not eligible to receive retroactive payments and/or who apply for underpayments under Miller II, because they are spouse providers. (MPP 50-018.491)

HANDBOOK ENDS HERE

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Amended Judgment regarding Miller v. Woods dated July 19, 1991, case no. 472068.

Adopt New Section 50-018.2 to read:

.2 Notification of Potential Claimants

.21 In order to notify potential claimants, the Department shall:

.211 Send an Explanatory Flyer in English and Spanish, and a Provider Standard Claim Form in English with instructions how to obtain the Spanish version, to all past and present IHSS providers contained on the IHSS Payroll System, from January 1, 1980 to November 30, 1988, who at any time during this period lived at the same address as the recipient. The Department will utilize the services of the Franchise Tax Board and Department of General Services to determine and mail to the most current mailing address available for providers identified in this manner.

.212 Provide each CWD with sufficient quantities of Standard Claim Forms, Supplemental Claim Forms, Explanatory Flyers, and 17" x 22" posters modeled after the Explanatory Flyers in both English and Spanish.

(a) For Miller II, there shall be a Provider Standard Claim Form, an Applicant/Recipient Standard Claim Form, a Provider Supplemental Claim Form, and an Applicant/Recipient Supplemental Claim Form.

(b) In Section 50-018 the terms "Standard Claim Form" and "Supplemental Claim Form" shall apply to both the provider and the applicant/recipient versions of these forms, unless otherwise noted.

(c) In terms of notifying potential claimants as contained in Section 50-018.211, the claim form mailed to providers shall be the Provider Standard Claim Form.

.213 Provide those interested organizations and groups listed in Appendix A-1 through A-9 of the final judgment referred to in Section 50-018.11 with copies of the Standard Claim Forms, the Explanatory Flyers, and the posters, with a request to display the posters in a prominent location and to distribute the Explanatory Flyers and Standard Claim Forms on request throughout the claim period.

.214 Provide the Federal Social Security Administration offices in California with copies of the posters, in English and Spanish, and request the agency to display the posters throughout the claim period in prominent locations where there is public access.

.22 The claim period identified in this section shall be the eight-month period from February 1, 1993 through September 30, 1993.

.23 In order to notify potential claimants, the CWDs shall:

.231 Place throughout the claim period the posters described in Section 50-018.212 in a prominent location in each local office having contact with the public.

.232 Provide the Explanatory Flyer and Standard Claim Form to any person inquiring about eligibility for retroactive payments and/or underpayments for MILLER v. WOODS.

.24 SDSS shall reopen specific Miller I cases from the first implementation that were denied solely for the reason that the claim was received after the end of the claim period. These reopened cases will be processed by CWDs as Miller II applications. A determination will be made pursuant to Section 50-018 as to the claimant's eligibility for both retroactive payments and underpayments. Reporting requirements for these reopened cases are contained in Section 50-018.73.

.241 The time period for reopened Miller I cases denied because the claim was received after the end of the Miller I claim period extends from March 10, 1989 through September 30, 1993.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code

Reference: Amended Judgment regarding Miller v. Woods dated July 19, 1991, case no. 472068.

Adopt New Section 50-018.3 to read:

.3 Application for Retroactive Payments and Underpayments

.31 Claimant Responsibilities

- .311 The claimant shall cooperate in obtaining all information necessary to process the claim. Failure to provide the needed information shall result in the denial of the claim or of that portion of the claim for which the information is necessary.
- .312 All claims for retroactive payments and underpayments shall be filed on a Miller v. Woods claim form with the CWD in which the claimant currently resides.
- .313 The claimant shall complete the claim form, sign the form under penalty of perjury, obtain the signature of a witness under penalty of perjury and mail or deliver the completed claim form to the CWD.
- .314 The claim form shall be completed as stipulated in Sections 50-018.431 and .443, and hand-delivered or mailed to the CWD and postmarked by September 30, 1993. Claims hand-delivered or mailed and postmarked after this date shall be denied.
- .315 If the claimant is sent a Notice of Action requesting the completion of either the Standard Claim Form or the Supplemental Claim Form, the claimant shall have 45 days from the date of the Notice of Action to complete and hand-deliver or mail the document to the CWD. Whenever the claimant must return a document or documents to the CWD within 45 days, the following shall apply:
  - (a) If mailed, the document(s) shall be postmarked by the last day of the 45-day period.
  - (b) If hand-delivered, the document(s) shall be delivered to the CWD no later than the close of business on the last day of the 45-day period.
  - (c) If required document(s) is not hand-delivered or mailed and postmarked within the time limits stated in Section 50-018.315, denial of the claim, or that portion of the claim for which the information is needed, shall result.
- .316 Unless otherwise specified, all references to "days" in regard to time limits shall be construed as "calendar" days.

.32 CWD Responsibilities - Filing Date/Time Limits

- (a) The CWD shall date stamp the claim form when received. The CWD shall retain all claim forms and envelopes of any claims received for the Miller v. Woods lawsuit.
- (b) The date of filing shall be the date postmarked on the envelope.
- (c) If the claim is filed in person at the CWD, the date of filing shall be the date received in the CWD office, and the date stamped on the claim.
- (d) If the filing date cannot be determined pursuant to Section 50-018.32(b) or (c), the filing date shall be the date the claim was signed.
- (e) If the claim must be forwarded to another county for processing because the services were either provided or received in the second county, the first county's filing date shall apply.
- (f) If the date of filing on the Standard Claim Form is after September 30, 1993, the claim shall be denied.
- (g) If a Supplemental Claim Form, as described in Section 50-018.441, must be sent to the claimant, the filing date shall not change. The filing date shall remain the same as that date which was determined in accordance with Sections 50-018.32, (b), (c), or (d).
- (h) If the CWD receiving the claim determines that services were received or provided while the recipient/applicant lived in another county for all or part of the claim period, the CWD shall:
  - (1) Send a copy of the claim to each affected county. The CWD shall also send a Notice of Action to the claimant within 10 calendar days of the filing date explaining that the correct CWD shall process the claim for the period of time in which the services were provided/received in the other county.
  - (2) As noted in Section 50-018.32(e), the filing date for the claim shall be that date which is determined by the first receiving CWD.
- (i) If the claim is a reopened Miller I claim to be processed for consideration of retroactive payments, the filing date shall be the date the claim was originally filed under Miller I. The filing date for a claim for underpayments shall be the date determined by the postmark on the returned claim for underpayments, or as otherwise stipulated in Section 50-018.32.

- (j) The CWD shall determine eligibility/ineligibility and compute the retroactive payments and underpayments due within 45 days of the filing date. The CWD shall input this information into the Case Management, Information and Payrolling System (CMIPS) so that interest can be computed on approved cases and the computation returned to the CWD.
  - (1) The CMIPS shall compute the total retroactive payment and/or underpayment amount due, with and without interest, and return the computation on a form developed by SDSS to the appropriate CWD within five working days from the date of CWD input.
- (k) Within 10 working days of receiving the computation from CMIPS, the CWD shall issue a Notice of Action to the claimant which contains the information specified in Section 50-018.631, and, if applicable, Sections 50-018.634 and .635. If approved, payment is authorized the same day as the Notice of Action is authorized.
- (l) CWDs receiving claims forwarded from another county shall process the claim, determine eligibility, compute retroactive payments and/or underpayments, compute interest, issue the necessary Notice of Action, and input the necessary information into CMIPS within 45 days of receipt from the original county.
- (m) ~~Time limits for CWDs specified in Section 50-018.72 may be exceeded~~ In situations where completion of the claims process specified tasks is delayed due to circumstances beyond control of the CWD, ~~in these instances~~ the reason(s) for the delay(s) shall be documented in the affected claimant's case file.
- (n) Unless otherwise specified, all references to "days" for these time limits shall be construed as "calendar" days.

.33 Retroactive Payment and Underpayment Time Periods

- .331 Eligibility for retroactive payments shall be limited to the following periods:
  - (a) April 1, 1979 through April 30, 1984 for claims in which the housemate was a nonspouse provider; and,
  - (b) April 1, 1979 through July 31, 1981 for claims in which the housemate was a spouse provider.
- .332 Claims in which the period claimed is beyond the retroactive time period specified in Section 50-018.331(a) shall be processed as underpayments only for the period May 1, 1984 through August 31, 1985.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Amended Judgment regarding Miller v. Woods dated July 19, 1991, case no. 472068.

Adopt New Sections 50-018.41, .42, .43, .44, and .45 to read:

.4 Claim Processing

.41 Conditions for Class Membership

.411 IHSS housemate provider claimants may be eligible to receive retroactive payments and/or underpayments in Miller II. Housemate provider claimants who are potentially eligible to receive retroactive payments and/or underpayments are persons who:

- (a) Lived with an individual meeting the conditions of Sections 50-018.413(a)/ and (b)/ ~~and~~ and either (d) or (e) and provided protective supervision to that individual during the applicable retroactive payment and/or underpayment period specified in Section 50-018.33; and,
- (b) Were not compensated for providing protective supervision services for the month(s) claimed and the recipient received less than the severely impaired or non-severely impaired statutory maximum applicable at the time.

.412 Spouse provider claimants may be eligible to receive retroactive payments only and are not entitled to underpayments in Miller II. Spouse provider claimants who are potentially eligible to receive retroactive payments are persons who:

- (a) Were legally married to an individual meeting all applicable conditions stated in Section 50-018.413, and provided protective supervision to that individual during the applicable retroactive payment period specified in Section 50-018.331(b); or,
- (b) Were considered to be a member of a married couple as defined for the purposes of SSI/SSP eligibility in 20 CFR 416.1806, lived with an individual meeting all applicable conditions stated in Section 50-018.413, and provided protective supervision services during the applicable retroactive payment and/or underpayment period specified in Section 50-018.331(b); and
- (c) Were not compensated for providing protective supervision services for the month(s) claimed and the recipient received less than the severely impaired or the non-severely impaired statutory maximum applicable at the time.

.413 IHSS recipient/applicant claimants potentially eligible to receive retroactive payments and/or underpayments are persons who:

- (a) Were California residents, aged, blind, or disabled during the applicable retroactive and/or underpayment period specified in Section 50-018.33 and met the eligibility conditions of MPP 30-755; and,
- (b) Were nonself-directing, confused, mentally impaired, or mentally ill, and may have been hurt or injured if left alone, thus meeting the general conditions for requiring the service of protective supervision; and,
- (c) Paid the housemate provider during the applicable retroactive payment and/or underpayment period for the service of protective supervision, and either,
- (d) Received IHSS benefits, but were denied protective supervision services during the applicable retroactive payment and/or underpayment period solely because the provider was a housemate or a spouse, and the amount of benefits was less than the severely impaired or nonseverely impaired maximum, as applicable at the time; or,
- (e) Applied for IHSS services during the applicable retroactive payment and/or underpayment period and were denied protective supervision solely because the provider was a housemate or a spouse.

.42 Review of Class Membership Questions

.421 The CWD shall review the responses to the class membership qualifying questions in Part I, Section 2 of the Provider Standard Claim Form.

- (a) If the claimant answered "no" to questions 2A, 2B, 2C, or 2D, the CWD shall issue a Notice of Action denying the claim. The notice shall explain ~~that~~ why the claimant is not a Miller v. Woods class member.
- (b) If the claimant answered "yes" to questions 2A, 2B, 2C, and 2D but answered "no" to both questions in 2F, that is, the person whom the claimant stated received protective supervision neither received nor was denied IHSS benefits, the CWD shall deny the claim and issue a Notice of Action. The notice shall explain that the claimant is not a Miller v. Woods class member because he/she did not prove the claimed recipient applied for or was denied IHSS during the claimed retroactive or underpayment period.
- (c) If the claimant answered "yes" to 2A, 2B, 2C, 2D, 2E, or 2F and the CWD has information available which contradicts the claimant's contention of class membership, the CWD shall issue a Notice of Action for Adverse Information and attach a copy of the contradictory information. The claimant shall have 45 days from the date of Notice of Action to provide additional information if available.



- (d) If the claimant answered "unknown" to either part of question 2F, the CWD shall issue a Notice of Action and a Miller v. Woods Provider Supplemental Claim Form to the claimant. The claimant shall have 45 days from the date of the Notice of Action to complete the form and return it to the CWD.

.43 Review of Information Contained on the Standard Claim Form

- .431 The CWD shall review each Standard Claim Form submitted to determine if the claimant has provided the information necessary to further process the claim. For the purposes of this determination, a claim shall be considered complete when all the following requirements are met:
  - (a) The following information requested in Part I, Section 1 is provided: name, social security number, and current address.
  - (b) All ~~qualifying~~ questions in Part I, Section 2 are answered.
  - (c) Part I, Section 3 is completed, if applicable.
  - (d) Part I, Section 4 is completed in its entirety, including: name of person who needed protective supervision; his/her current or last known address, and his/her relationship to the provider.
  - (e) Part I, Section 5, of the Standard Claim Form is signed by the claimant and dated.
  - (f) Part I, Section 6, of the Standard Claim Form is signed and dated.
  - (g) The information requested in Part II and Part III is provided, as applicable.
- .432 If the CWD determines that Part I of the Standard Claim Form has not been completely filled out as specified in Section 50-018.431, the CWD shall send the claimant a Notice of Action specifying that portion of the form which is in need of completion. The Notice of Action shall also state that the claimant has 45 days from the date of the Notice of Action to submit the completed form to the CWD. If the completed form is not returned to the CWD within the 45 days, the claim shall be denied, and a denial Notice of Action (NOA) shall be mailed to the claimant.
- .433 Upon receipt of the information requested in Section 50-018.432, the CWD shall review the resubmitted information to determine if the claim is now complete in accordance with the criteria in Section 50-018.431. If complete, the CWD shall continue processing the claim.

- (a) If the claim is still not complete because the claimant did not provide all the requested information, the CWD shall deny the claim.

.434 Failure on the part of the claimant to respond within the 45-day period shall result in denial of the claim.

.44 Supplemental Claim Form

.441 The CWD shall issue a Supplemental Claim Form to the claimant whenever the CWD is unable to locate either a previously approved IHSS case record or a record of denial of IHSS eligibility. The purpose of the Supplemental Claim Form shall be to: (1) request information from the claimant regarding the claimed recipient's applying for and being denied IHSS during the retroactive payment period; and (2) determine whether the person claimed to have received protective supervision services met or would have met the income/resource eligibility requirements for IHSS services during the period claimed. The CWD shall include a Notice of Action with the Supplemental Claim Form stating that completion of the form is necessary in order to further determine eligibility for retroactive payments and underpayments and that the claimant must return the completed form to the CWD within 45 days.

- (a) If the CWD has no case record of an IHSS application and denial for the claimed recipient during the retroactive payment period(s) being claimed, the Notice of Action accompanying the Supplemental Claim Form shall request the claimant to complete all parts of the Supplemental Claim Form, based on the criteria in Section 50-018.443.
- (b) If the CWD has a case record showing the claimed recipient had applied for and was denied IHSS for the retroactive payment period(s) being claimed, but the CWD cannot determine from the case record whether the claimed recipient met IHSS income/resource eligibility criteria, the Notice of Action accompanying the Supplemental Claim Form shall request the claimant to complete Parts I, III, and IV of the Supplemental Claim Form, relating to income/resource eligibility for IHSS, based on the criteria in Section 50-018.443.
- (c) If the CWD has lost or destroyed its records or did not maintain adequate records during the claimed period, the CWD shall send the Supplemental Claim Form requesting completion of all parts of the form based on the criteria in Section 50-018.443.

.442 Upon receipt the CWD shall date stamp the submitted Supplemental Claim Form following the provisions of Section 50-018.32(a).

.443 The CWD shall review the submitted Supplemental Claim Form to ensure that all required questions are answered, all required information is provided, and that the form is signed and dated by both the claimant and by a verifying witness. For the purposes of this determination, the Supplemental Claim Form shall be considered complete when the required sections specified in Section 50-018.441 are completed and:

- (a) The following information requested in Part I, Section 1 is provided: name and address of the person for whom it is claimed provided/received protective supervision services during the months claimed.
- (b) For the Provider Supplemental Claim Form, Part I, Section 2, the name and current or last known address of the person for whom it is claimed received protective supervision services during the months claimed, is completed.
- (c) If Part II is applicable, Sections 1 and 2 requesting information and documentation related to an IHSS application and/or denial for the person for whom it is claimed received protective supervision services during the months claimed, is completed.
- (d) Part III, Sections 1, 2, and 3 relating to the (1) receipt of Supplemental Security Income/State Supplemental Program (SSI/SSP) benefits; (2) average gross monthly income from all sources; and (3) the amount of average monthly liquid resources in excess of \$1500 for a single person, and \$2250 for a married person, are provided for the claimed recipient during the years for which hours are claimed.
- (e) Part IV of the Provider or Recipient Supplemental Claim Form is signed and dated by the claimant.
- (f) Part IV, Section 2 of the Provider or Recipient Supplemental Claim Form is signed by a verifying witness, and dated, with his/her address and relationship to claimant completed.
- (g) Part IV, Section 3 of the Applicant/Recipient Supplemental Claim Form is signed by the person completing the claim form, with address and relationship to the applicant/recipient completed.

.444 If the CWD determines that the Supplemental Claim Form is incomplete based on the criteria in Section 50-018.443, the CWD shall send a Notice of Action requesting the missing information and attach to the Notice a copy of the original Supplemental Claim Form submitted. The Notice of Action shall specify the section number of the form which is in need of completion and shall state that the claimant has 45 days from the date of the Notice of Action to submit the completed form or the claim will be denied.

(a) Upon receipt of the information requested in Section 50-018.444, the CWD shall review the submitted information to determine whether the Supplemental Claim Form is now complete in accordance with Section 50-018.443. If complete, the CWD shall continue processing the claim. If the Supplemental Claim Form is still not complete, the CWD shall deny the claim.

.445 If the completed Supplemental Claim Form is not received from the claimant within the 45-day limit, the CWD shall deny the claim in accordance with Section 50-018.314.

.446 Information submitted by the claimant on the Supplemental Claim Form shall be presumed to be true as long as the form has been signed and dated by both the claimant and a witness, unless the CWD has information which contradicts information supplied by the claimant. If the CWD has such information available and the CWD determines that information indicates the claimed recipient of protective supervision services would not have been eligible for IHSS, the CWD shall issue a Notice of Action for Adverse Information and attach a copy of the contradictory information. The claimant shall have 45 days from the date of the Notice of Action to provide additional information if available.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Amended Judgment regarding Miller v. Woods dated July 19, 1991, case no. 472068 and 20 CFR 416.1806.

Adopt New Section 50-018.45 to read:

.45 Existing Case File and Information Requirement

- .451 The CWD shall determine if there is an existing case file with which to match claim information for determining eligibility.
- .452 In accordance with Section 50-018.44, if the CWD cannot locate a case file for the IHSS recipient/applicant for whom it is claimed protective supervision services were provided without IHSS compensation, or if the CWD cannot determine eligibility from the existing case file for the months claimed, the CWD shall send a Supplemental Claim Form to the claimant.
- .453 All information received and/or obtained in relation to the Miller v. Woods court case, and all forms generated as a result of the court case, shall be retained by the CWD in a Miller case file. These documents shall include, but not be limited to:
- (a) Completed Standard Claim Form and any subsequent resubmittals;
  - (b) Completed Supplemental Claim Form, if applicable, and any subsequent resubmittals and any documents submitted by the claimant in responding to the Supplemental Claim Form;
  - (c) Completed Eligibility Determination Worksheets, including documentation of retroactive payments and prejudgment interest calculations as well as underpayment calculations;
  - (d) A copy of any Notices of Action sent to the claimant;
  - (e) A copy of any correspondence with other CWDs in relation to the claim;
  - (f) All CMIPS documents; and,
  - (g) A copy of all other documents used in the determination of eligibility and computation of payments.
- .454 The CWD shall not require the claimant to provide information other than that requested on the Standard Claim Form and, if needed, Supplemental Claim Form. However, the claimant shall be offered an opportunity, in the form of a Notice of Action for Adverse Information, to submit additional information that might rebut a possible denial based on CWD records. The CWD shall consider any additional information submitted by the claimant to support his/her claim.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code

Reference: Amended Judgment regarding Miller v. Woods dated July 19, 1991, case no. 472068.

Adopt New Section 50-018.46 to read:

.46 Presumptive Need For and Provision of Protective Supervision

- .461 If other information available to the CWD including, but not limited to, previous or current IHSS casefiles, does not rebut the presumption of need for protective supervision, the person claiming to have needed protective supervision is presumed to have needed protective supervision for the months claimed during the applicable retroactive payment and/or underpayment period if:
- (a) A need for protective supervision was assessed at any time, in which case the need shall be from that time forward; or,
  - (b) The needed protective supervision is attested to by a sworn statement from the claimant and verified by a sworn statement of a witness contained on the Standard Claim Form. The CWD shall consider any other documentation submitted by the claimant to support the presumption of need for protective supervision.
- .462 The person claiming to have needed protective supervision is presumed to have received protective supervision services for the months claimed during the applicable retroactive payment and underpayment periods if the delivery of such services is attested to by a sworn statement from the claimant and verified by a sworn statement of a witness, contained on the Standard Claim Form, and other information available to the CWD, including, but not limited to, previous or current IHSS casefiles, does not rebut the presumption of delivery of protective supervision services.
- (a) The CWD shall presume that any protective supervision services provided and claimed were not provided voluntarily.
- .463 If information available to the CWD rebuts the presumption of either the need for or the delivery of protective supervision services during any of the months claimed during the applicable retroactive payment and underpayment period, the CWD shall issue a Notice of Action for Adverse Information and attach a copy of the contradictory information. The claimant shall have 45 days from the date of the Notice of Action to provide additional information if available.
- .464 If the CWD IHSS recordkeeping system shows no record of the claimed recipient ever applying for or being denied IHSS for the period being claimed, the CWD shall issue a Notice of Action requesting the claimant to complete an attached Supplemental Claim Form in accordance with Section 50-018.44. The claimant shall have 45 days from the date of the Notice of Action to submit the completed Supplemental Claim Form.

- (a) If the claimant does not submit the Supplemental Claim Form within the 45-day period, the claim shall be denied.
- (b) If the claimant submits the Supplemental Claim Form, and it is complete based on the criteria in Section 50-018.443, the CWD shall proceed to Section 50-018.532.
- (c) If the submitted Supplemental Claim Form is incomplete based on the criteria in Section 50-018.443, the CWD shall follow instructions in Section 50-018.444(a).
- (d) If the CWD determines that information supplied by the claimant verifies that the claimed recipient did in fact apply for and was denied IHSS during the retroactive payment period being claimed, the CWD shall continue to process the claim to determine eligibility for payments.
- (e) If the CWD determines that the information supplied by the claimant does not verify that the claimed recipient did apply for and was denied IHSS during the retroactive payment period being claimed, the CWD shall issue a denial Notice of Action.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Amended Judgment regarding Miller v. Woods dated July 19, 1991, case no. 472068.

Adopt New Sections 50-018.47 and .48 to read:

.47 Miller I Reopened Cases Denied For Late Filing

.471 Only those Miller I claims specified in Section 50-018.24 that were denied because the claim was received after the end of the Miller I claim period shall be reopened and reconsidered for retroactive payments and prejudgment interest during the Miller II claim period.

.472 The Miller I claimants whose claims shall be reopened during Miller II, those claims which were denied solely for the reason of late filing, shall be sent a Notice of Action prior to the beginning of the Miller II claim period. The Notice of Action shall state the reason for the reopening and shall request the claimant to complete an attached Miller II Standard Claim Form only if the claimant desires to make a claim for underpayments.

(a) The claimant shall be requested to complete and return the Miller II Standard Claim Form if he/she wishes to make a claim for underpayments.

(b) The CWD shall begin processing the reopened Miller I claims immediately upon notification that the claim has been reopened.

(c) If the Miller I claimant whose case has been reopened makes a claim for underpayments, such claim shall be processed in accordance with Section 50-018.4.

.48 With the exception of Section 50-018.47, claimants filing in Miller II who had previously filed Miller I claims shall have their Miller II claim processed for underpayments only, where underpayments exist.

.481 A Miller I claim shall be one that was received during the Miller I claim period, September 9, 1988 through March 9, 1989. Regulations in effect for Miller I required each claim to receive a retroactive payment eligibility determination resulting in either an approval, a denial, or a partial approval/denial. In addition, the final decision of each Miller I claim had to be documented by a Notice of Action to the claimant stating the decision and notifying the claimant of the right to a state hearing.

.482 No Miller I claim for the retroactive claim period may be reopened or reconsidered except as specified in Section 50-018.47.

.483 Except as specified in Section 50-018.47, Miller I claimants who make a claim in Miller II for retroactive payments and prejudgment interest shall have their claim for such payments denied.



.484 Miller I claimants making a claim under the provisions of Miller II for underpayments shall receive an eligibility determination for underpayments.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Amended Judgment regarding Miller v. Woods dated July 19, 1991, case no. 472068.

Adopt New Section 50-018.49 to read:

.49 Eligibility for Underpayments

.491 Miller II spouse providers shall not be eligible for underpayments. Spouse provider eligibility for Miller II retroactive payments extends only through July 31, 1981.

(a) Spouse providers making a claim for underpayments in Miller II shall have their underpayment claim denied, with a Notice of Action stating the reason for the denial. Such providers may be eligible for retroactive payments or underpayments under Welfare Rights Organization (WRO) v. McMahon, and will receive a WRO Standard Claim Form with their Miller II denial NOA.

.492 Miller II nonspouse provider and applicant/recipient claims shall be eligible for underpayment consideration only if their eligibility for Miller II retroactive payments extended through the end of the retroactive payment claim period, April 30, 1984.

(a) Nonspouse providers and applicant/recipient claimants shall have their Miller II claim for underpayments denied if their eligibility for retroactive payments does not extend through the end of the Miller II retroactive payment claim period, April 30, 1984. Their Miller II claim for underpayments shall be denied with a Notice of Action stating the reason for the denial.

HANDBOOK BEGINS HERE

(b) Eligibility for underpayments in Miller II results from IHSS cases or Miller II cases carried through the effective date of the corrected housemate regulations, MPP 30-763.6, effective May 1, 1984. Potentially eligible cases are those that were not corrected as of the effective date of the revised regulations. Claims for underpayments in which there was not an active case requiring updating to reflect the housemate regulations shall be denied, with the exception of approved Miller II claimants whose eligibility extends through the end of the retroactive claim period.

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Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code

Reference: Amended Judgment regarding Miller v. Woods dated July 19, 1991, case no. 472068.

Adopt New Sections 50-018.51, .52, .53, .54, .55, .56, and .57 to read:

.5 Use of County Worksheet to Document Findings and Calculate Payments Due

- .51 The CWD shall use the Miller v. Woods Retroactive Payment Eligibility Determination Worksheets to document all determinations made on each claim submitted. Information from the Standard Claim Form, and the Supplemental Claim Form and case record, where available, shall be used to complete the worksheet.
- .511 The CWD shall record the claimed provider's and recipient's names, social security numbers, and case number, if available, at the top of Part I of the worksheet.
- .512 The CWD shall determine the claimed recipient's eligibility for class membership by reviewing the claimant's response on Part I, Section 2 of the Standard Claim Form, and shall document these findings on step #1 of the worksheet.
- (a) If the claimant answered "yes" to questions 2A, 2B, 2C, and 2D, of the Standard Claim Form, the CWD shall proceed to step #2 of the worksheet.
- (b) If the claimant answered "no" to any of the above questions, the CWD shall issue a denial Notice of Action explaining that the claimed recipient is not a Miller II class member.
- .513 The CWD shall determine if the claimed recipient applied for or was denied IHSS during the retroactive claim period, by reviewing the claimant's response on Part I, Section 2, question 2F, of the Standard Claim Form, and shall document this finding on step #2 of the worksheet.
- (a) If the claimant answered "yes" to the first part of question 2F of the Standard Claim Form, the CWD shall proceed to step #3 of the worksheet.
- (b) If the claimant answered "no" to the first part of question 2F of the Standard Claim Form, the CWD shall issue a denial Notice of Action.
- (c) If the claimant answered "unknown" to either part of question 2F of the Standard Claim Form, the CWD shall send a Supplemental Claim Form to the claimant.
- .514 The CWD shall determine if there is any record of an IHSS approval or denial, and shall document this finding on step #3 of the worksheet.

(a) If there is a record of approval or denial the CWD shall:

- (1) proceed to step #4 of the worksheet if there is a record of approval for IHSS.
- (2) proceed to step #9 of the worksheet if there is a record of denial for IHSS.

(b) If there is no IHSS case record, the CWD shall send the claimant a Supplemental Claim Form.

.52 In determining eligibility for those claims in which the CWD has verified by case record that the claimed recipient of protective supervision services was authorized IHSS during the month(s) claimed, the CWD shall do the following, using the Retroactive Payment Eligibility Determination Worksheet, Part I, steps #4 through #8:

.521 Determine whether the case record indicates that protective supervision services were denied during the month(s) claimed for a reason other than because a spouse/housemate was providing the service, and check the appropriate response on step #4 of the worksheet.

(a) If, for any month(s) claimed, the case record indicates that the denial was based on a reason other than the provision of protective supervision by the spouse/housemate, the CWD shall issue a Notice of Action for Adverse Information and attach a copy of the information which indicates the reason for denial of protective supervision. The claimant shall have 45 days from the date of the Notice of Action to provide additional information if available. The CWD shall process the claim for any remaining month(s) of eligibility, pending receipt of a response from the claimant.

.522 Determine whether any information exists outside the case record which indicates that protective supervision services were denied during the month(s) claimed for any reason other than the provision of protective supervision by the spouse/housemate, and check the appropriate response on step #5 of the worksheet. Information outside the case record may consist of, but not be limited to, the CWD's knowledge of the IHSS recipient's placement in a state hospital or other type of out-of-home care during the month(s) claimed.

(a) If, for any month(s) claimed, information exists outside the case record, as described in Section 50-018.522, the CWD shall document the reason in the space provided on the worksheet, issue a Notice of Action for Adverse Information, and attach a copy of the information, which indicates the reason for denial of protective supervision. The claimant shall have 45 days from the date of the Notice of Action to provide additional information, if available.

The CWD shall process the claim for any remaining month(s) of eligibility, pending the receipt of a response from the claimant.

- .523 Determine from the case record whether the IHSS recipient was authorized the statutory maximum payment, as described in Section 50-018.58, during any eligible month(s) claimed. Check the appropriate response on step #6 of the worksheet.
- (a) For any eligible month(s) claimed in which the IHSS recipient was authorized the statutory maximum payment, the CWD shall issue a Notice of Action of Adverse Information and attach a copy of the relevant information from the case record. The claimant shall have 45 days from the date of the Notice of Action to provide additional information regarding their level of authorized hours, if available.
  - (b) The CWD shall proceed to Section 50-018.54 and determine if there are any remaining month(s) in which the case was not authorized the statutory maximum.
- .524 Determine from the case record or Part I, Section 4 of the Standard Claim Form, the relationship between the claimed provider and recipient. Check the appropriate response on step #7 of the worksheet.
- .525 Determine from the case record whether the claimed IHSS recipient was severely impaired (SI) or nonseverely impaired (NSI) and check the appropriate response on step #8 of the worksheet.
- .53 In determining eligibility for those claims in which the claimed recipient of protective supervision was denied IHSS during the month(s) claimed, the CWD shall complete step #9 of the Retroactive Payment Eligibility Determination Worksheet, locate the record of denial, and follow the procedures in Sections 50-018.521 and .522. The CWD shall proceed to Section 50-018.55 for instructions to complete the calculation of net payments on Miller II claims in which an IHSS case had been denied and the Miller II claimant is determined eligible for payments.
- .531 If the CWD is unable to determine from the record the reason for denial of IHSS during either the entire or partial period claimed, the CWD shall issue a Notice of Action and a Supplemental Claim Form to the claimant to establish whether the claimed recipient received protective supervision would have met the income/resource eligibility requirements for IHSS. The claimant shall have 45 days from the date of the Notice of Action to complete the Supplemental Claim Form and return it to the CWD, or the claim shall be denied.
- .532 Upon the CWD's receipt of the completed Supplemental Claim Form, for denied IHSS cases, the CWD shall check the appropriate responses on Part I, steps #10 through #12 of the worksheet. The CWD shall proceed to Section 50-018.55 if:

- (a) The claimant's responses on Part III, Sections 2 and 3, of the form indicate that the IHSS income/resource eligibility requirements would have been met during the period claimed.
- (b) If the claimant's responses on Part III, Sections 2 and 3, of the form indicate that the IHSS income/resource eligibility requirements would not have been met during the period claimed, the CWD shall deny the claim for those period(s) of ineligibility, document the reason for denial, and then proceed to Section 50-018.55 for any remaining period(s) of eligibility.
- (c) If the claimant's responses on Part III, Sections 2 and 3 of the form indicate that the IHSS income/resource eligibility requirements would have been met during the period claimed, but the CWD obtains information which contradicts that supplied by the claimant, the CWD shall issue a Notice of Action For Adverse Information and attach a copy of the contradictory information. The claimant shall have 45 days from the date of the Notice of Action to provide additional information, if available.

.533 If the claimant fails to return the completed Supplemental Claim Form to the CWD within 45 days from the date of the Notice of Action, the CWD shall deny those months in which the IHSS eligibility could not be established. If there are any remaining months of potential eligibility, the CWD shall determine eligibility and shall proceed, as applicable, to Section 50-018.55.

.54 Calculating the Actual Retroactive Payments and Underpayments -IHSS Case Record For Period Being Claimed

.541 Parts II and III of the Standard Claim Form and information from the case record, if available, shall be used to calculate retroactive payments and underpayments due on the Retroactive Payment Eligibility Determination Worksheet and the Underpayment Eligibility Determinative Worksheet. The CWD shall use the appropriate worksheet to calculate retroactive payments if the claimant is found eligible.

.542 For each claim in which IHSS eligibility during the applicable retroactive payment and/or underpayment periods has been established by the findings in the case record, the CWD shall use Part II of the appropriate worksheet to calculate and document the payments due for each month as follows:

- (a) Each month and year claimed during the retroactive payment and/or underpayment period shall be listed in Column 1.
- (b) A determination of whether the claimant is "class eligible," as provided on Part I, step #1, shall be entered for each eligible month in Column 2.

- (c) The number of hours claimed, as entered on Parts II and III of the Standard Claim Form, shall be entered in Column 3.
- (d) The dollar amount claimed, which shall be determined by multiplying the number of hours claimed by the CWD's lowest individual provider hourly wage rate during the period claimed, shall be calculated by CMIPS in Column 4.
- (e) The amount of payment the IHSS recipient was originally authorized during the applicable retroactive and/or underpayment period shall be entered by the CWD, from review of the case record, in Column 5.
- (f) The applicable statutory maximum as specified in Section 50-018.58, shall be entered by CMIPS in Column 6.
  - (1) If the case record indicates that the IHSS recipient was severely impaired, CMIPS shall calculate payments using the applicable severely impaired maximums. If the case record indicates that the IHSS recipient was nonseverely impaired, CMIPS shall calculate payments using the applicable nonseverely impaired maximums. The CWD shall enter the appropriate impairment level in Column 7.
- (g) The applicable statutory maximum, as specified in Section 50-018.58 minus the amount originally authorized and entered in Column 5 shall be calculated by CMIPS in Column 8.
- (h) Total retroactive payments and/or underpayments due shall be calculated by CMIPS in Column 9 as follows:
  - (1) For those claims in which it has been established by the case record that the person who is claimed to have received protective supervision services was an IHSS recipient, the total retroactive payments and/or underpayments due shall be the lesser of either of the following:
    - (A) The difference between the applicable statutory maximum, as specified in Section 50-018.58 and the amount originally authorized, as entered in Column 5, or;
    - (B) The amount claimed, as entered in Column 4.
  - (2) Claimants entitled to retroactive payments shall also be entitled to prejudgment interest. CMIPS shall calculate the amount of prejudgment interest due, based on the amount of retroactive payments in Column 9.

- (3) Underpayments due shall not be subject to prejudgment interest.

- .543 After completion of calculations for retroactive payments and/or underpayments, the CWD claim processor and his/her immediate supervisor shall sign and date the appropriate worksheet at the space provided.
- .55 Calculating the Actual Net Retroactive Payments and/or Underpayments -Denied and No Record Cases
  - .551 Parts II and III of the Standard Claim Form, and the case record and Supplemental Claim Form, if available, shall be utilized to calculate retroactive payments and underpayments due on the Retroactive Payment Eligibility Determination Worksheet and the Underpayment Eligibility Determination Worksheet. The CWD shall use the appropriate worksheet to calculate retroactive payments if the claimant is found eligible.
  - .552 For each claim in which the CWD has either located a record of IHSS denial or the CWD has been unable to locate a case record and eligibility for IHSS has been established by the responses on the Supplemental Claim Form, the CWD shall use Part II of the appropriate worksheet to calculate and document the payments due as follows for each month claimed:
    - (a) Each month and year claimed during the retroactive payment and/or underpayment claim period shall be listed in Column 1.
    - (b) A determination of whether the claimant is class eligible, as indicated on Part I, step #1, shall be entered for each eligible month in Column 2.
    - (c) The number of hours claimed, as provided on Parts II and III of the Standard Claim Form, shall be entered in Column 3.
    - (d) The dollar amount claimed, which shall be determined by multiplying the number of hours claimed by the CWD's lowest individual provider hourly wage rate during the period claimed, shall be calculated by CMIPS in Column 4.
    - (e) The applicable nonseverely impaired statutory maximum, as specified in Section 50-018.58 shall be calculated by CMIPS in Column 6.
      - (1) The CWD shall use the applicable nonseverely impaired statutory maximum to calculate payments due for all eligible cases in which: the CWD has no record of denial or the case record could not be located; eligibility has been established through the Supplemental Claim Form; and, available evidence does



not clearly show recipient need at the severely impaired level. The CWD shall enter the appropriate impairment level in Column 7.

(f) The total retroactive payments and/or underpayments due, which shall be the amount claimed, as specified in Section 50-018.542(d), (the amount claimed for any month does not exceed the applicable nonseverely impaired statutory maximum during the month claimed) shall be calculated by CMIPS in Column 9.

(1) The total payments due shall be limited to the applicable nonseverely impaired statutory maximum amount during the month claimed.

(2) Claimants entitled to retroactive payments shall also be entitled to prejudgment interest.

(3) Underpayments due shall not be subject to prejudgment interest.

.552 After completion of calculations for retroactive payments and/or underpayments, the CWD claim processor and his/her immediate supervisor shall sign and date the appropriate worksheet at the space provided.

.56 The CWD shall use the Miller v. Woods Underpayment Eligibility Determination Worksheet to document all determinations for underpayment claims which were determined eligible for retroactive payments under Miller I or Miller II. Information from the Standard Claim Form, Retroactive Payment Eligibility Determination Worksheet, and Supplemental Claim Form and case record, where available, shall be used to complete the worksheet.

.561 The CWD shall record the claimed provider's and recipient's names, social security numbers, and case number, at the top of Part I.

.562 The CWD shall determine whether the claimant is a spouse by reviewing Part I, Section 4 of the Standard Claim Form.

(a) If the claimant is a spouse, the CWD shall document this on Part I, step #1 of the worksheet, and shall deny the claim for underpayments. The CWD shall refer the claimant to WRO and include a WRO Standard Claim Form with the Miller II denial Notice of Action.

(b) If the claimant is not a spouse, the CWD shall proceed to step #2 of the worksheet.

.563 The CWD shall determine the claimed recipient's eligibility for class membership by reviewing the claimant's response on Part I, Section 2, of the Standard Claim Form, and shall document these findings on step #2 of the worksheet.

- (a) If the claimant answered "no" to questions 2A, B, C, or D of the Standard Claim Form, the CWD shall issue a denial Notice of Action.
  - (b) If the claimant answered "yes" to all of the above questions, the CWD shall proceed to step #3 of the worksheet.
- .564 The CWD shall review the Standard Claim Form, Part I, Section 2, question 2F to determine if the claimed recipient applied for and/or was denied IHSS during the claim period.
- (a) If the claimant answered "no" to the first part of question 2F, the CWD shall issue a denial Notice of Action.
  - (b) If the claimant answered "yes" to the first part of question 2F, the CWD shall proceed to step #4 of the worksheet.
- .565 The CWD shall determine if the claimant filed a claim under Miller I by reviewing the case record or CMIPS.
- (a) If the CWD determines the claimant did file a claim under Miller I, the CWD shall proceed to step #5 of the worksheet.
  - (b) If the CWD determines the claimant did not file a claim under Miller I, the CWD shall proceed to step #7 of the worksheet.
- .566 If the claimant filed a claim under Miller I as documented in step #4 of the worksheet, the CWD shall determine if the claim was denied by reviewing the case record or CMIPS.
- (a) If the Miller I claim was denied, the CWD shall deny the Miller II underpayment claim.
  - (b) If the Miller I claim was not denied, the CWD shall proceed to step #6 of the worksheet.
- .567 If the claimant filed a claim under Miller I as documented in step #4 of the worksheet, the CWD shall determine if the Miller I claim was approved through the end of the retroactive payment period by reviewing the case record or CMIPS.
- (a) If the Miller I claim was approved through the end of the retroactive payment period, the CWD shall proceed to step #9 of the worksheet.
  - (b) If the Miller I claim was not approved through the end of the retroactive payment period, the CWD shall deny the Miller II underpayment claim.

- .568 If the CWD determines the claimant did not file a claim under Miller I, the CWD shall determine if the claimant is eligible for retroactive payments by reviewing the Retroactive Payment Eligibility Determination Worksheet.
- (a) If the claimant is not eligible for retroactive payments under Miller II, the CWD shall deny the claim for underpayments.
  - (b) If the claimant is eligible for retroactive payments under Miller II, the CWD shall determine if the claimant is eligible for retroactive payments through the end of the retroactive payment period, April 30, 1984.
    - (1) If the claimant is not eligible for retroactive payments through the retroactive period, April 30, 1984, the CWD shall document this on step #8 of the worksheet and deny the claim for underpayments.
    - (2) If the claimant is eligible for retroactive payments through the end of the retroactive payment period of April 30, 1984, the CWD shall document this on step #8 of the worksheet, and proceed to step #9 of the worksheet.
- .569 The CWD shall determine if there is an IHSS case record for the claimant and check the appropriate response on step #9 of the worksheet.
- (a) If the CWD determines there is no IHSS case record, the CWD shall compute underpayments at NSI maximums and proceed to Part II of the worksheet.
  - (b) If the CWD determines there is an IHSS case record, the CWD shall check the appropriate response on step #10 of the worksheet, and calculate underpayments at the appropriate maximums, taking into account payment of previously authorized IHSS services.
- .57 Calculating the Actual Underpayments - Claims With and Without an IHSS Case Record
- .571 The CWD shall use Section 50-018.54 to calculate underpayments for claims with an IHSS case record, which are otherwise eligible to receive underpayments.
  - .572 The CWD shall use Section 50-018.55 to calculate underpayments for claims with no IHSS case record, which are otherwise eligible to receive underpayments.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Amended Judgment regarding Miller v. Woods dated July 19, 1991, case no. 472068; and Sections 12300, 12304, and 12304.5, Welfare and Institutions Code.

Adopt New Section 50-018.58 to read:

.58 IHSS Statutory Maximum During Retroactive Payment and Underpayment Periods

Effective Date	NSI	SI
7/1/78 --- 6/30/79	\$431	\$621
7/1/79 --- 6/30/80	\$460	\$664
7/1/80 --- 6/30/81	\$532	\$767
7/1/81 --- 6/30/82	\$581	\$838
7/1/82 --- 6/30/83	\$581	\$838
7/1/83 --- 6/30/84	\$604	\$872
7/1/84 --- 6/30/85	\$638	\$921
7/1/85 --- 8/31/86	\$674	\$974

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Amended Judgment regarding Miller v. Woods dated July 19, 1991, case no. 472068; and Sections 12300, 12304, and 12304.5, Welfare and Institutions Code.

Adopt New Section 50-018.61 to read:

.6 General Provisions

.61 Share of cost

.611 The CWD shall not consider any recipient share of cost when computing the amount of retroactive payments and/or underpayments due.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Amended Judgment regarding Miller v. Woods dated July 19, 1991, case no. 472068; and Sections 12300 and 12304.5, Welfare and Institutions Code.

Adopt New Section 50-018.62 to read:

.62 Prejudgment Interest

.621 Prejudgment interest for retroactive payments only shall be calculated at the following rates:

- (a) Seven percent for the period April 1, 1979 through December 31, 1982; and,
- (b) Ten percent for the period January 1, 1983 through April 30, 1984.

.622 The interest shall be computed on the amount of the monthly payment up through the last day of the month following the month in which payment is authorized.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code

Reference: Amended Judgment regarding Miller v. Woods dated July 19, 1991, case no. 472068.

Adopt New Section 50-018.63 to read:

.63 Notices of Action

- .631 For each claim received for retroactive payments and/or underpayments, the CWD shall issue a final Notice of Action. The Notice of Action shall contain the following information:
- (a) The month(s) determined eligible and/or ineligible for retroactive payments and/or underpayments. The reason(s) for any months determined ineligible shall be clearly stated;
  - (b) The amount of retroactive payments due for each month, which shall be shown with and without interest;
  - (c) The amount of retroactive payments and interest due for each year, if payments are claimed for more than one year;
  - (d) The total retroactive payments due and the total amount of interest due;
  - (e) The combined amount of retroactive payments and interest due;
  - (f) The amount of underpayments due for each month, for each year, if payments are claimed for more than one year, and the total underpayment due;
  - (g) A statement regarding withholding taxes;
  - (h) A statement regarding the claimant's right to a State Hearing on Miller v. Woods determinations made by the CWD and information on how to request such hearings.
- .632 Each Notice of Action issued due to the claimant's failure to complete either the Standard Claim Form or Supplemental Claim Form in its entirety shall specify those sections of the form in need of completion.
- .633 Each Notice of Action issued as a result of the CWD having contradictory information shall include a copy of the information and shall advise the claimant that he/she has 45 days from the date of the Notice of Action to provide additional information, if applicable.
- (a) If the claimant does not respond within 45 days and provide information to rebut the CWD's contradictory information, the CWD shall issue a final Notice of Action denying the claim for the months of ineligibility.



- .634 For each claim denied, the Notice of Action shall clearly state the reason(s) for denial for each period claimed.
- .635 For each approved claim in which the claimant is currently an IHSS recipient, the Notice of Action shall advise the claimant that the payment received as a result of his/her Miller v. Woods claim may adversely affect his/her IHSS, SSI eligibility or other aid program eligibility and tax liability.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Amended Judgment regarding Miller v. Woods dated July 19, 1991, case no. 472068; and Sections 12300 and 12300.2, Welfare and Institutions Code.

Adopt New Section 50-018.64 to read:

.64 State Hearings

.641 The right to a state hearing on any Miller v. Woods claim shall be granted only to Miller v. Woods claimants or their authorized representatives.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Amended Judgment regarding Miller v. Woods dated July 19, 1991, case no. 472068; and Sections 10950 and 12300, Welfare and Institutions Code.

Adopt New Section 50-018.65 to read:

.65 Treatment of Lump Sum Payments in the IHSS Program

.651 It shall be the responsibility of the CWD to determine if the lump sum Miller v. Woods payments affect or do not affect the continued eligibility of all Miller v. Woods claimants who are currently IHSS recipients.

.652 Miller v. Woods payments shall be disregarded for IHSS financial eligibility determinations for the month of receipt and the following month. Any remaining balance from the Miller v. Woods payments shall be counted as a resource in the second month following the month of receipt.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Amended Judgment regarding Miller v. Woods dated July 19, 1991, case no. 472068.

Adopt New Sections 50-018.7 and .8 to read:

.7 Monitoring CWD Compliance

.71 County Statistical Reports

.711 Beginning February 1, 1993 and continuing until an eligibility determination has been made on each claim received, the SDSS shall compile a monthly report on retroactive payment claims and a separate monthly report on underpayment claims. The reports shall contain the following information:

- (a) The number of claims received;
- (b) The number of claims denied;
- (c) The number of claims approved;
- (d) The number of claims pending; and,
- (e) The amount of payments approved.

.72 Final Report

.721 SDSS shall obtain from the CMIPS a final report, by county, that includes the following:

- (a) The number of claimants paid;
- (b) The total amount of retroactive payments paid;
- (c) The number of underpayments paid; and,
- (d) The total amount of underpayments paid.

.73 Beginning with the end of the first month of the claim period, CMIPS will provide a report on the status of each Miller I claim reopened as a result of being denied due to being received by the CWD after the end of the Miller I claim period.

.731 The report shall include, by county, a listing of each reopened claim to include name of recipient, name of claimant, case number, provider number, and NOAs issued to date.

.732 This listing shall be continued until each claim on the listing has been approved or denied.

.733 A final report on the status of these reopened Miller I claims shall be made, to include, by county and statewide: number of Miller I claims reopened, number of approvals, number of denials, total dollar amount retroactive payments, total dollar amount of prejudgment interest, the total of retroactive payments and prejudgment interest, and the total amount of underpayments authorized.

.74 Case Reviews

.741 Based on the quarterly reports, SDSS shall determine the fifteen (15) counties having the largest number of claims over the eight-month period.

.75 CWD Cooperation

.751 Each CWD shall cooperate with SDSS in providing information deemed necessary to monitor county compliance with the provisions of Section 50-018 and the Miller II final judgment.

.8 Appendix - Forms

.81 The following forms are to be used to process Miller v. Woods claims:

- (a) Poster - 2042 (Eng/Sp) (11/92)
- (b) Explanatory Flyer - 2031 (Eng/Sp) (11/92)
- (c) Provider Standard Claim Form - 2000 (Eng/Sp) (11/92)
- (d) Provider Supplemental Claim Form - 2001 (Eng/Sp) (11/92)
- (e) Provider Retroactive Eligibility Determination Worksheet - 2003 (Eng/Sp) (11/92)
- (f) Provider Underpayment Eligibility Determination Worksheet - 2002 (Eng/Sp) (11/92)
- (g) Applicant/Recipient Standard Claim Form - 2028 (Eng/Sp) (11/92)
- (h) Applicant/Recipient Supplemental Claim Form - 2029 (Eng/Sp) (11/92)
- (i) Applicant/Recipient Eligibility Determination Retroactive Worksheet - 2027 (Eng/Sp) (11/92)
- (j) Applicant/Recipient Underpayment Eligibility Determination Worksheet - 2030 (Eng/Sp) (11/92)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Amended Judgment regarding Miller v. Woods dated July 19, 1991, case no. 472068.

## NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

STD. 400 (REV. 2-91)

## AGENCY

California Department of Social Services

AGENCY FILE NUMBER (if any)

0393-09

OAL FILE  
NUMBERS

NOTICE FILE NUMBER

REGULATORY ACTION NUMBER

EMERGENCY NUMBER

PREVIOUS REGULATORY ACTION NUMBER

930622-01E

For use by Office of Administrative Law (OAL) only

ENDORSED IN 2 50  
APPROVED FOR FILING  
AND PUBLICATION

ADMINISTRATIVE LAW

JUN 30 1993

Office of Administrative Law

NOTICE

REGULATIONS

For use by Secretary of State only

FILED

In the office of the Secretary of State  
of the State of California

JUN 30 1993

At 4:22 O'clock P. M.

MARCH FONG EU, Secretary of State

By *Cynthia J. Price*  
Deputy Secretary of State

## A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. TOPIC OF NOTICE Child Support Distribution Standards		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed <input type="checkbox"/> Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE

## B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

## 1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

TITLE(S) MPP	ADOPT
SECTIONS AFFECTED	AMEND Sections 42-203.114, 43-203.131 and 43-203.152
	REPEAL

## 2. TYPE OF FILING

☐ Regular Rulemaking (Gov. Code, § 11346)  
☐ Resubmittal  
☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100)  
☒ Emergency (Gov. Code, § 11346.1(b))  
☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.  
☐ Print Only  
☐ Other (specify)

## 3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

## 4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☐ Effective 30th day after filing with Secretary of State  
☐ Effective on filing with Secretary of State  
☒ Effective other (Specify) July 1, 1993

## 5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☐ Department of Finance (Form STD. 399)  
☐ Fair Political Practices Commission  
☐ State Fire Marshal  
☐ Other (Specify)

## 6. CONTACT PERSON

TELEPHONE NUMBER

Jim Rhoads, Assistant Chief, Regulations Development Bureau

657-2586

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

*Eloise Anderson*

DATE

JUN 22 1993

TYPED NAME AND TITLE OF SIGNATORY

ELOISE ANDERSON, Director

## NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 2-91) ( REVERSE)

INSTRUCTIONS FOR PUBLICATION OF NOTICE  
AND SUBMISSION OF REGULATIONS

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

**ALL FILINGS**

Enter the agency name and agency file number, if any.

**NOTICES**

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

**REGULATIONS**

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

**RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS**

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

**EMERGENCY REGULATIONS**

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

**NOTICE FOLLOWING EMERGENCY ACTION**

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

**CERTIFICATE OF COMPLIANCE**

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

**EMERGENCY REGULATIONS - READOPTION**

When submitting previously approved emergency regulations for re adoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

Amend Section 43-203 to read:

43-203 DISTRIBUTION OF CHILD AND SPOUSAL SUPPORT PAYMENTS

43-203

.1 Child and Spousal Support collected.

.11 through .113 (Continued)

.114 When the IV-A agency distributes support payments on behalf of cases receiving AFDC, ~~THIS~~ the disregard payment, even if it is less than \$50, shall be made by the ~~5th calendar~~ 15th day of the month following the month of ~~distribution~~ collection. ~~The distribution month is the month following the month of collection.~~

.115 (Continued)

.116 (Continued)

.117 (Continued)

.12 (Continued)

.13 (Continued)

.131 When the IV-A agency distributes support payments on behalf of cases receiving AFDC, ~~T~~this payment shall be made in by the 15th day of the month following the month of collection.

.132 (Continued)

.14 (Continued)

.15 (Continued)

.151 (Continued)

.152 When the IV-A agency distributes support payments on behalf of cases receiving AFDC, ~~T~~this payment shall be made ~~in~~ by the fifteenth day of the month following the month of collection.

.16 (Continued)

.17 (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code; and 45 CFR 232.20(d) (57 Fed. Reg. 54515, November 19, 1992).



## NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

STD. 400 (REV. 2-91)

## AGENCY

California Department of Social Services

AGENCY FILE NUMBER (if any)

RDB# 593-14

OAL FILE  
NUMBERS

NOTICE FILE NUMBER

REGULATORY ACTION NUMBER

EMERGENCY NUMBER

PREVIOUS REGULATORY ACTION NUMBER

**EMERGENCY**

For use by Office of Administrative Law (OAL) only

ENDORSED  
APPROVED FOR FILING  
AND PUBLICATION

JUN 30 1993

Office of Administrative Law

NOTICE

REGULATIONS

original  
For use by Secretary of State only**FILED**In the office of the Secretary of State  
of the State of California

JUN 30 1993

At 4:20 o'clock P.M.  
MARCH FONG EL, Secretary of State  
By *Cynthia H. Pace*  
Deputy Secretary of State

## A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. TOPIC OF NOTICE IV-D Distribution Time Standards		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed <input type="checkbox"/> Regulatory Action		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	
<input type="checkbox"/> Other					
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE	

## B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

## 1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

TITLE(S) MPP	ADOPT
SECTIONS AFFECTED	AMEND Sections 12-101.3 and 12-108
	REPEAL

## 2. TYPE OF FILING

☐ Regular Rulemaking (Gov. Code, § 11346)
 ☐ Resubmittal
 ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100)
 ☒ Emergency (Gov. Code, § 11346.1(b))

☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only
 ☐ Other (specify) \_\_\_\_\_

## 3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

N/A

## 4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☐ Effective 30th day after filing with Secretary of State
 ☐ Effective on filing with Secretary of State
 ☒ Effective other (Specify) July 1, 1993

## 5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☐ Department of Finance (Form STD. 399)
 ☐ Fair Political Practices Commission
 ☐ State Fire Marshal

☐ Other (Specify) \_\_\_\_\_

## 6. CONTACT PERSON

Jim Rhoads, Assistant Chief, Regulations Development Bureau

TELEPHONE NUMBER

657-2586

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

*Eloise Anderson*

DATE

6-17-93

TYPED NAME AND TITLE OF SIGNATORY

Eloise Anderson, Director

**NOTICE PUBLICATION/REGULATIONS SUBMISSION**

STD. 400 (REV. 2-91) ( REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE  
AND SUBMISSION OF REGULATIONS**

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

**ALL FILINGS**

Enter the agency name and agency file number, if any.

**NOTICES**

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

**REGULATIONS**

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

**RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS**

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

**EMERGENCY REGULATIONS**

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

**NOTICE FOLLOWING EMERGENCY ACTION**

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

**CERTIFICATE OF COMPLIANCE**

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

**EMERGENCY REGULATIONS - READOPTION**

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

Amend Section 12-101.3 to read:

CHAPTER 12-100 CHILD SUPPORT ENFORCEMENT PROGRAM COMPONENTS AND STANDARDS

12-101 GENERAL (Continued)

12-101

.3 Definitions of terms specific to these regulations are:

a. (Continued)

(4) "Arrearage" -- means the unpaid support payments for past periods owed by a parent who is obligated to pay by court order.

(45) "Assigned collection" (Continued)

b. (Reserved)

c. (Continued)

(5) "Current support payment" -- means the amount of support collected which meets the court-ordered support obligation for the current month.

d. (1) "Date of collection" -- means the date that the support payment is initially received by a Title IV-D agency or employer depending upon the payment source.

(A) The date of collection for each payment source is as follows:

<u>Payment Source</u>	<u>Collection Date</u>
<u>1. Absent parent payments</u>	<u>For purposes of determining entitlement to any payments to families and meeting the time standards, the date of collection is the date that the payment is received by the district attorney initially making the collection.</u>
<u>2. Intercept payments [Internal Revenue Service (IRS)/ Franchise Tax Board (FTB)/ Lottery Commission]]</u>	<u>For purposes of determining entitlement to any payments to families and meeting the time standards, the date of collection is the date the payment is transferred to the department, which is identified in the title of the transfer report.</u>

3. Liens

For purposes of determining entitlement to any payments to families and meeting the time standards, the date of collection is the date that the payment is received by the district attorney initially making the collection.

4. Unemployment Insurance Benefits (UIB)/State Disability Insurance (SDI) payments

For purposes of determining entitlement to any payments to families and meeting the time standards, the date of collection is the date the benefit is issued to the absent parent which is identified on the transfer report, and labelled as the issue date.

5. Wage withholding

For purposes of determining entitlement to any payments to families, the date of collection is the date that the payment is withheld from the absent parent's wages by the employer. This date is provided by the employer.

If the employer does not provide this date, the district attorney shall either contact the employer to obtain the date; or reconstruct the date by comparing the actual amounts collected with the pay schedule specified in the court order.

For purposes of meeting the time standards for making payments to families, the date of collection is the date that the payment is received by the district attorney initially making the collection.

6. Writs/till taps (Enforcement methods requiring due process period)

For purposes of determining entitlement to any payments to families and meeting the time standards, the date of collection is the date that the payment is received by the district attorney after the period for appealing the action has expired.

(B) The date of collection for each multi-jurisdictional payment source is as follows:

Payment Source

Collection Date

1. Intercounty payments

The date of collection is contingent upon the payment source in the California county initially making the collection [see Section 12-101.3d.(1)(A)].

2. Interstate payments

For purposes of determining entitlement to any payments to families, the date of collection is contingent upon the payment source in the state initially making the collection.

For purposes of meeting the time standards for making the payments to the family, there is a separate time standard requirement for both the initiating and responding jurisdictions.

(i) Initiating

For initiating jurisdictions (the other state Title IV-D agency initially makes the collection) the date that the payment is received in the initial California county is the point in time which starts the distribution time standard for making payments to families.

(ii) Responding

For responding jurisdictions (the California county initially makes the collection) the date of collection is contingent upon the payment source in the county initially making the collection [see Section 12-101.3d.(1)(A)].

(C) The date of collection for postdated checks and unidentified payments is as follows:

Payment Source

Collection Date

1. Postdated checks

For purposes of determining entitlement to any payments to families and meeting the time standards, the date of collection is the date the payment is posted by the district attorney initially making the collection.

2. Unidentified payments

For purposes of determining entitlement to any payments to families, the date of collection is contingent upon the payment source by the district attorney initially making the collection [see Section 12-101.3d.(1)(A)].

For purposes of meeting the time standards for making payments to families, the date that the payment is identified to a specific case by the district attorney initially making the collection is the point in time which starts the distribution time standard for making payments to families.

(12) "Department" (Continued)

(23) "Diligent effort" (Continued)

(34) "Direct payment" (Continued)

(45) "Director" (Continued)

e. (1) ~~(Reserved)~~ "Excess" -- means the amount of assigned arrearage collection remaining when all past unreimbursed assistance has been recouped. (Continued)

p. (1) "Pass-on" -- means the amount by which the current support collection exceeds the assistance paid to the family during the collection month.

(2) "Payments to Families" -- means [from the support payment collected] the amount of support that belongs to the family (i.e., disregard, pass-on, excess, and/or non-welfare payments).

(3) "Plan of Cooperation" (Continued)

Authority Cited: Sections 10553, 10554, 11475, and 11479.5, Welfare and Institutions Code.

Reference: Sections 11475, 11479.5, and 15200.85, Welfare and Institutions Code; and 45 CFR 232.11 and 300 through 307.

Amend Section 12-108 to read:

12-108 TIME STANDARDS - DISTRIBUTION OF COLLECTIONS (Continued)

12-108

- .2 For interstate cases, the district attorney shall distribute collections on behalf of other states to the initiating state within 15 calendar days of initial receipt of the collection in this state from the date of collection as defined in Section 12-101.3 d.(1).
- .3 The district attorney shall distribute collections received from a child support enforcement agency in another state within the time standards set forth in this section.
- .4 For intercounty cases, the district attorney shall forward collections made on behalf of another California county to the initiating county as soon as possible so that payments can be made to the family within the time standards set forth in this section.
- .35 When the district attorney issues the \$50 disregard payments for the county welfare department, the district attorney shall:
- .351 Distribute collections of the first \$50 or more of current support payments collected on behalf of families receiving aid AFDC within 15 calendar days of receipt of at least \$50 in the state from the end of the collection month.
- .511 If the amount collected during the month is less than \$50, the AFDC family shall be paid the entire amount within 15 calendar days from the end of the collection month.
- 132 Distribute collections on behalf of families receiving aid within 15 calendar days of the end of the month in which support is collected if less than \$50 is received during that month.
- 133 Distribute collections on behalf of cases receiving foster care services within 15 calendar days of initial receipt in the state.
- 134 Distribute collections within 15 calendar days of initial receipt in the state for cases not receiving aid.
- 135 Distribute tax refund offset collections within 30 calendar days of receipt by the district attorney.
- 1351 For cases not receiving aid, the district attorney may delay distribution of offset collections from joint federal tax returns until the earlier of the following occurs:
- a/ Notification that the unobligated spouse's share of the refund has been paid.
- b/ Six months from the date of notification of the offset.

13b Distribute amounts in excess of current support which are collected on behalf of families not currently receiving aid to the family/ if there are no assigned attorneys/ within 15 calendar days of initial receipt in the state/

14 For cases which cease to receive aid/ the district attorney shall distribute collections for the month following the month in which aid terminates within 15 calendar days of initial receipt in the state/

.6 When the district attorney distributes collections made on behalf of cases receiving AFDC, any pass-on or excess payments due to the AFDC family shall be paid within 15 calendar days from the end of the collection month, except as provided in Section 12-108.9 below.

.7 In foster care cases, any pass-on or excess payments shall be forwarded to the designated agency responsible for placement and care of the child within 15 calendar days from the end of the collection month.

.8 When the district attorney distributes collections made on behalf of cases not currently receiving AFDC, any payments due to the non-AFDC family shall be paid within 15 calendar days from the date of collection as defined in Section 12-101.3 d.(1), except as provided in Section 12-108.9 below.

.9 Any payments due to the family from Internal Revenue Service (IRS) and Franchise Tax Board (FTB) tax intercept collections shall be paid within 30 calendar days from the date of collection as defined in Section 12-101.3d.(1).

Authority Cited: Sections 10553, 10554 and 11475, Welfare and Institutions Code.

Reference: Section 11479.5, Welfare and Institutions Code; and 45 CFR 302.32, 302.32(f)(2)(i) and (ii), 302.32(f)(3)(ii) and (iii), 302.51, 302.52, 303.7(a)(4), 303.72(h)(5) and 303.102.



## NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

STD. 400 (REV. 2-91)

## AGENCY

California Department of Social Services

AGENCY FILE NUMBER (If any)

0393-07

OAL FILE  
NUMBERS

NOTICE FILE NUMBER

REGULATORY ACTION NUMBER

EMERGENCY NUMBER

PREVIOUS REGULATORY ACTION NUMBER

93-0621-05E

For use by Office of Administrative Law (OAL) only

ENDORSED  
APPROVED FOR FILING  
AND PUBLICATION

JUN 30 1993

Office of Administrative Law

NOTICE

REGULATIONS

original  
For use by Secretary of State only

FILED

In the office of the Secretary of State  
of the State of California

JUN 30 1993

At 4:20 O'clock P. M.

MARCH FONG EU, Secretary of State

By Cynthia J. Price

Deputy Secretary of State

## A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. TOPIC OF NOTICE Refugee Cash Assistance(RCA) Cause Determin. & Concil. Requirements		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed <input type="checkbox"/> Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE	

## B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

## 1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

TITLE(S)	ADOPT
MPP	69-209.5 through .54
SECTIONS AFFECTED	AMEND
	69-210.1
	REPEAL
	69-209.5 & .6 and 69-210.151

## 2. TYPE OF FILING

☐ Regular Rulemaking (Gov. Code, § 11346)
 ☐ Resubmittal
 ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100)
 ☒ Emergency (Gov. Code, § 11346.1(b))

☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only
 ☐ Other (specify)

## 3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

Not Applicable

## 4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☐ Effective 30th day after filing with Secretary of State
 ☒ Effective on filing with Secretary of State
 ☐ Effective other (Specify)

## 5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☐ Department of Finance (Form STD. 399)
 ☐ Fair Political Practices Commission
 ☐ State Fire Marshal

☐ Other (Specify)

## 6. CONTACT PERSON

Jim Rhoads, Asst. Bureau Chief, Regulations Development Bureau

TELEPHONE NUMBER

(916) 657-2586

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

Eloise Anderson

TYPED NAME AND TITLE OF SIGNATORY

Eloise Anderson, Director

DATE

JUN 21 1993

**NOTICE PUBLICATION/REGULATIONS SUBMISSION**

STD. 400 (REV. 2-91) (REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE  
AND SUBMISSION OF REGULATIONS**

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

**ALL FILINGS**

Enter the agency name and agency file number, if any.

**NOTICES**

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

**REGULATIONS**

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

**RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS**

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

**EMERGENCY REGULATIONS**

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

**NOTICE FOLLOWING EMERGENCY ACTION**

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

**CERTIFICATE OF COMPLIANCE**

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

**EMERGENCY REGULATIONS - READOPTION**

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

Repeal Sections 69-209.5, .6, and .612 and adopt new Section 69-209.5 to read:

69-209 CAUSE DETERMINATIONS (Continued)

69-209

~~15 Renumbered to Section 69-210/1 by SSSS Manual Letter No. SP-90-01/ effective 4/2/90/~~

~~16 Renumbered to Section 69-210/2 by SSSS Manual Letter No. SP-90-01/ effective 4/2/90/~~

~~1612 Repealed by SSSS Manual Letter No. SP-90-01/ effective 4/2/90/~~

.5 Additional Cause Determination Interview Requirements

.51 In each case in which information from Refugee Cash Assistance (RCA) service providers or the Central Intake Unit (CIU) appears to indicate that good cause does not exist for an RCA recipient's refusal or failure to participate in an assigned RCA educational or training component, or to accept a job offer or referral, or to conduct job search, the county welfare department (CWD) shall conduct a face-to-face interview with the individual prior to making a good cause determination.

.52 If the RCA recipient contacts the CWD worker prior to the scheduled cause determination interview to request a rescheduling, the individual shall be permitted one rescheduling of the interview. This rescheduled interview shall take place within ten working days following the date that the CWD becomes aware of a recipient's failure to cooperate/participate, or within thirty days of the date that the recipient failed to cooperate/participate, whichever occurs first.

.53 The CWD shall be permitted to conduct telephone interviews to accomplish the cause determination if the CWD determines it is appropriate and the recipient agrees. Language interpretation by the CWD, when necessary, shall be provided in accordance with MPP Section 21-115.

.54 If the recipient does not keep the initial or rescheduled appointment for the cause determination interview, a cause determination shall be made from available information.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code; ~~and~~ 45 CFR 400.75(a)(7)(i) ~~and~~ (i)(ii); ORR waiver letter from Philip A. Holman to Linda McMahon, dated July 6, 1989; and Dang, et al. v. McMahon, et al., No. 623839-9.

Amend and renumber Section 69-210.1 to read

69-210 CONCILIATION

69-210

.1 (Continued)

.11 If the recipient contacts the CWD worker prior to the scheduled conciliation interview to request a rescheduling, ~~the interview shall be rescheduled/~~ the individual shall be permitted one rescheduling of the interview. This rescheduled interview shall take place within ten working days following the date that the CWD becomes aware of a recipient's failure to cooperate/ participate, or within thirty days of the date that the recipient failed to cooperate/participate, whichever occurs first.

.12 The CWD shall be permitted to conduct the conciliation appointment by telephone if the CWD determines it is appropriate and the recipient agrees. Language interpretation by the CWD, when necessary, shall be provided in accordance with MPP Section 21-115.

.13 The recipient attending the conciliation appointment or otherwise contacted by the CWD during conciliation shall be informed of the right to request that a CWD supervisor review the determination of no good cause. Language interpretation by the CWD, when necessary shall be provided in accordance with MPP Section 21-115.

.124 (Continued)

.1241 (Continued)

.1242 (Continued)

HANDBOOK BEGINS HERE

.135 (Continued)

HANDBOOK ENDS HERE

.146 (Continued)

.1461 (Continued)

.1462 (Continued)

.137 (Continued)

~~137 The CWD shall notify the recipient in writing of the successful completion of conciliation/~~

.138 (Continued)

Authority Cited: Section 10554, Welfare and Institutions Code.

Reference: 45 CFR 400.82(b)(3)(iii); and ORR waiver letter from Philip A. Holman to Linda McMahon, dated July 6, 1989; and Dang, et al. v. McMahon, et al., No. 623839-9.